

Planning and Development Committee
February 4, 2015
6:00 PM
Conference Room
AGENDA

1. Approval of January 14, 2015 Special Meeting Minutes:
2. Committee Applications:
 - A. Andrew Nelson: Re-appointment to Planning Board
3. Updates:
 - A. MRC Development Progress
4. Old Business:
 - A. Ordinance Amendments – Code Enforcement Officer
 - B. Draft Subdivision Ordinance Amendments Discussion
 - C. Western Avenue Rezoning Discussion
 - D. Private Ways Discussion
5. New Business:
 - A. Rezoning P/O 1A Discussion
6. Comprehensive Plan Implementation:
7. Citizens Initiatives:
8. Public Comments:
9. Committee Member Comments:
10. Adjourn

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Notes to the P&D Committee Reference the Amendments, Repeals and Adoptions presented by the Code Enforcement Officer on February 4, 2015.

- Zoning Ordinance – Article 3.13 Business B District Amendments
 - Decreases necessary road frontage and setback
 - This change is being amended so that the narrower lots presently in this district can be better served as business lots
 - Removes subjective language from 3.13.5.3(b)
 - It is very difficult to enforce something that is discouraged
 - Adds a requirement for color renderings or color computer drawings to show compliance with special district requirements
 - Shows that the building will be in compliance with 3.13.5.3
 - Amends the EXAMPLE to reflect the change in setback amended in the beginning
- Building Code Ordinance
 - Repeals the Building Code Ordinance
 - This Ordinance is obsolete after the State adopted MUBEC
- Residential Building Code Ordinance
 - Repeals the Residential Building Code Ordinance
 - This Ordinance is obsolete after the State adopted MUBEC
- Maine Uniform Building and Energy Code Ordinance
 - Establishes a new Town Ordinance
 - This Ordinance establishes how the Town applies and enforces MUBEC
 - Section 2.3
 - This section allows for Third-Party State Licensed Inspectors to inspect in the Town
 - *This section does not allow Third-Party State Licensed Inspectors to inspect one- or two-family dwellings or townhouses in the Town*
 - *The CEO and Building Inspector believes this is a disadvantage to the future owners of the residence as there is no review requirement by the Town for these inspections and we have had complaints from contractors in town that these inspectors are hard to get ahold of to come and inspect their work in a timely manner*

- *Section 4*
 - *This section requires Knox Boxes on all new construction in the Town except for one- or two-family dwellings or townhouses.*
 - *These boxes are for fire safety and firefighter safety when entering a building either on fire or for investigation.*
 - *These allow for entry for fire alarms and will help prevent unnecessary damage by firefighters entering a building*
 - *These also allow the fire department to enter a building quickly to search and investigate alarm activations. These minutes not waiting for a keyholder or having to force a door can help minimize damage from fire.*
- Life Safety Code Ordinance
 - Amends the Ordinance to adopt the current State adopted and amended Life Safety Code, NFPA 101-2009
 - This places the Life Safety Code in Town in line with the State Adopted Code that the CEO and Building Inspector currently have to enforce as well
- Fire Prevention Code Ordinance
 - Amends the Ordinance to adopt the current State adopted and amended Uniform Fire Code, NFPA 1-2006
 - This places the Fire Prevention Code in Town in line with the State Adopted Code that the CEO and Building Inspector currently have to enforce as well
- Zoning Ordinance – Articles 4.15 & 7.2 Amendments
 - *Amends the Ordinance to incorporate International Residential Code 2009 Appendix G for barrier requirements for swimming pools as defined in the amendment. Title 10 M.R.S. §9724 allow municipalities to adopt barrier requirements in addition to state requirements as long as they are Appendix G of IRC 2009.*

Italicized Text Indicates Town established requirements above State requirements.

The Town of Hampden hereby ordains that the "Building Code Ordinance" adopted on September 16, 2002, as amended on March 27, 2006 and June 19, 2006, and as set forth below, is hereby repealed in its entirety, effective as of the effective date of the adoption of a new ordinance entitled Maine Uniform Building and Energy Code Ordinance.

Note: Effective December 1, 2010, the Town of Hampden began applying and enforcing the Maine Uniform Building and Energy Code ("MUBEC") as required by 10 M.R.S. §9724. Section 9724(3) provides that effective December 1, 2010, any ordinance regarding a building code that is inconsistent with MUBEC is void. Therefore, the existing Building Code Ordinance is being repealed, and a new ordinance is being adopted concerning the administration and enforcement of MUBEC.

TOWN OF HAMPDEN, MAINE BUILDING CODE ORDINANCE

Section 1 - Building Code Adopted.

~~The Town of Hampden hereby ordains that in accordance with Title 30-A, M.R.S.A. Section 3003 the "2003 International Building Code, published by the International Code Council Inc., is hereby adopted and incorporated by reference, as the minimum standard for the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and their service equipment, both existing and proposed, located within the Town of Hampden. (Amended: 3-27-2006)~~

Section 2 - Inconsistent Ordinances Repealed.

~~The Ordinances known as the "Building Code Ordinance" adopted on April 5, 1993, May 25, 1959, and September 16, 2002 are hereby repealed. If any provision of this code conflicts with any provision of another ordinance, the more strict provision shall prevail. (Amended: 3-27-2006)~~

Section 3 - Amendments to Published Version.

~~Said Building Code is adopted in its published form as if fully set forth herein, except as follows:~~

~~Section 101 is amended to read as follows:~~

~~101.1 Title: These regulations shall be known as the Building Code of the Town of Hampden hereinafter referred to as "this code."~~

~~101.4, 101.4.2, 101.4.3, 101.4.5, 101.4.6 and 101.4.7 are deleted. (Amended: 3-27-2006)~~

~~101.4.1 is amended to read as follows:~~

~~101.4.1 Electrical. The provisions of the most current version of NFPA 70, National Electrical Code as adopted by the State of Maine Electricians' Examining Board shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto. Any reference to electrical installations or chapter 27 shall be construed to reference the Code cited above. (Amended: 3-27-2006)~~

~~101.4.4 is amended to read as follows:~~

~~101.4.4 Plumbing. The provisions of the State of Maine Internal Plumbing Code, Chapter 238 shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the State of Maine Subsurface Wastewater Disposal Rules, Chapter 241 shall apply to private sewage disposal systems. In addition to these codes the provisions of the Town of Hampden Sewer ordinance shall also apply. (Amended: 3-27-2006)~~

Section 103.1 is deleted and replaced with the following:

~~103.1 Building Official: Further references in this code to the "building official" shall be interpreted to mean the Code Enforcement Officer or the Building/Fire Inspector of the Town of Hampden. (Amended: 3-27-2006)~~

Section 104.2 is amended to read as follows:

~~104.2 The Building Official shall review construction documents for the erection, alteration or demolition and moving of buildings and structures. Inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.~~

Section 105 is amended to read as follows: ~~(Amended: 3-27-2006)~~

~~105.1 deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~105.1.1 deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~105.1.2 deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~105.2 deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~105.2.3 deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~105.3 deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~105.3.1 deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~105.3.2 deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~105.5 deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

Section 106 is amended to read as follows:

Section 106.1 is amended to read as follows:

~~106.1 Submittal documents. Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared or certified by a State of Maine registered Professional Engineer, and shall indicate full compliance with all provisions of this code and all other relevant laws, rules, ordinances or regulations. Where special conditions exist or inadequate information was provided on the original documents, the building official is authorized to require additional construction documents to be prepared by said Engineer. (Amended: 3-27-2006)~~

—Section 106.1.1.1 is amended to read as follows:

~~106.1.1.1 *Fire protection system shop drawings.* Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this code, the construction documents, and any applicable NFPA standards as adopted by the State of Maine Fire Marshal's Office. Applicant shall provide proof at the time of application that the State Fire Marshal's office has approved said drawings. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9 and applicable NFPA standards. (Amended: 3-27-2006)~~

—Section 106.1.2 is amended to read as follows:

~~106.1.2 *Means of egress.* The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the most current version of *NFPA 101, Life Safety Code* as adopted by the State Fire Marshal's Office. These construction documents shall be submitted to the State Fire Marshal's Office for review of compliance with NFPA 101 and any other relevant laws, rules or regulations under their authority. One set of these documents shall be stamped by the Firemarshal's office and returned to the Town of Hampden Code Enforcement Office. (Amended: 3-27-2006)~~

~~Section 106.2 (Amended: 3-27-2006)~~

~~Section 107 (Amended: 3-27-2006)~~

Section 108 is amended to read as follows:

~~108 is deleted and replaced with the Town of Hampden Fees Ordinance.~~

Section 110 is amended to read as follows:

~~110 is deleted and replaced with Section 5.3.2 of the Town of Hampden Zoning Ordinance.~~

Section 112 is amended to read as follows:

~~Sections 112.1, 112.2 and 112.3 are deleted and replaced with the following:~~

~~112.1 *Compliance With Board of Appeals Ordinance.* All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. The owner of a building or structure or any other aggrieved person may appeal to the Town of Hampden Board of Appeals, from a decision of the Building Official refusing to grant a modification to the provisions of this code covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure. Such appeal shall be commenced, within 30 days of the decision. (Amended: 3-27-2006), (Amended: 06-19-2006)~~

~~112.2 *Appellate Review.* The Board of Appeals may conduct an appellate review of the refusal to grant a modification to the provisions of this code covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure. (Amended: 06-19-2006)~~

~~*Basis of the Appeal.* The appellant must demonstrate that the decision of the building official having jurisdiction: (1) failed to correctly interpret the true intent of this code or the rules, regulations, or~~

ordinances adopted by the Municipal Officers, (2) the provisions of this code do not fully apply, or (3) failed to consider an equivalent form of construction can be used. (Amended: 06-19-2006)

~~Modification or Reversal of the Decision.~~ The Board of Appeals may modify or reverse the decision of the Building Official upon making a determination that (1) the true intent of this code or the rules, regulations or ordinances adopted by the Municipal Officers have been incorrectly interpreted, (2) the provisions of this code do not fully apply, or (3) an equivalent form of construction can be used. (Amended: 06-19-2006)

~~112.3 Deleted.~~ (Amended: 06-19-2006)

Section 113.2 is deleted and replaced with the following:

~~113.2 Enforcement:~~ Whenever the Building Official, or his/her authorized agents, determines there is a violation of any provisions of said Code, he/she shall give written notice of such violation to the property owner, lessee, occupant or their agents. Such notice shall:

- ~~1. Include a description of the real estate in question sufficient for identification; and~~
- ~~2. Include a description of the violation found and the citation to the provisions violated, of said Code; and~~
- ~~3. Specify the remedial action required for correction of said violation; and~~
- ~~4. Order that such violation be corrected within a reasonable period of time; and~~
- ~~5. State that an appeal from any order, decision or other action of the Building Official may be taken to the Board of Appeals by filing with the Code Official a written request for an appeal within ten (10) days of receipt of said written notice.~~

Section 113.3 is deleted and replaced with the following:

~~113.3 Legal action and violations:~~ When any violation of any provision of this code exists, the Building Official is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provision of this code in the name of the Town of Hampden.

Section 113.4 is deleted and replaced with the following:

~~113.4 Civil penalties:~~ The provisions of 30-A M.R.S.A., Section 4452 shall apply to the determination of penalties for violations of this code. The minimum penalty for starting work without a permit required by this code shall be \$100.00, and the maximum penalty shall be \$2,500.00. The minimum penalty for any specific violation of this code shall be \$100.00, and the maximum penalty shall be \$2,500.00. The maximum penalty may exceed \$2,500.00, but shall not exceed \$25,000.00, when it can be shown that there has been a previous conviction of the same party within the past two (2) years for violation of the same ordinance provision. If the economic benefit resulting from the violation exceeds the applicable penalties set forth herein, the maximum civil penalties may be increased to an amount not to exceed twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or the enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements. Each day of violation shall constitute a separate violation. All civil penalties shall inure to the benefit of the Town of Hampden. (Amended: 3-27-2006)

~~Chapter 10 is deleted and replaced with the most current version of NFPA 101, Life Safety Code as adopted by the State of Maine Fire Marshal's Office. Any reference within this code to means of egress or chapter 10 shall be construed to reference the Code cited above.~~ (Amended: 3-27-2006)

~~Section 1612.3 is amended to read as follows: (Amended: 3-27-2006)~~

~~1612.3 Establishment of flood hazard areas. Federal Emergency Management Agency engineering report entitled "Flood Insurance Study Town of Hampden, Penobscot County, Maine," dated September 4, 1987 as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto are hereby adopted by reference and declared to be part of this section. (Amended: 3-27-2006)~~

~~Section 1612.4 is amended to read as follows:~~

~~1612.4 Design and construction. The design and construction of buildings and structures located in flood hazard areas, including flood hazard areas subject to high velocity wave action, shall be in accordance with ASCE 24 and the Town of Hampden Floodplain Management Ordinance. (Amended: 3-27-2006)~~

~~Sections 2111, 2112 and 2113 are deleted and replaced with construction standards found in the most current version of NFPA 211, Standard for Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances as adopted by the State of Maine. (Amended: 3-27-2006)~~

~~Chapter 27 is deleted and replaced with the most current version of NFPA 70, National Electrical Code as adopted by the State of Maine Electricians' Examining Board. All installations shall be certified by a State of Maine licensed Master Electrician to be in compliance with NFPA 70. Any reference to electrical installations or chapter 27 shall be construed to reference the Code cited above. (Amended: 3-27-2006)~~

~~Chapter 28 is deleted and replaced with the most current version of NFPA 54, National Fuel Gas Code as adopted by the State of Maine. (Amended: 3-27-2006)~~

~~Chapter 29 is deleted and replaced with the State of Maine Internal Plumbing Code, Chapter 238. (Amended: 3-27-2006)~~

~~Chapter 30 is deleted and replaced with the Maine State Elevator Regulations found in Title 32, Chapter 133 of the Maine Revised Statutes Annotated. (Amended: 3-27-2006)~~

~~Chapter 32 is deleted. (Amended: 3-27-2006)~~

~~Section 3305.1 is amended to read as follows:~~

~~3305.1 Facilities required. Sanitary facilities shall be provided during construction, remodeling or demolition activities in accordance with Federal and State OSHA requirements. (Amended: 3-27-2006)~~

~~Section 3309.2 is amended to read as follows:~~

~~3309.2 Fire hazards. The provisions of this code and the most current version of NFPA 1, Uniform Fire Code as adopted by the State of Maine Fire Marshal's Office shall be strictly observed to safeguard against all fire hazards attendant upon construction operations. (Amended: 3-27-2006)~~

~~Section 3410.2 is amended to read as follows:~~

~~3410.2 Applicability. Structures existing prior to the effective date of this ordinance, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the~~

~~requirements of this section or the provisions of Sections 3403 through 3407. The provisions in Sections 3410.2.1 through 3410.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S, and U. These provisions shall not apply to buildings with occupancies in Group H or I. (Amended: 3-27-2006)~~

~~Section 4 Applicability.~~

~~The provisions of this Code shall apply to all activities addressed in section 101.2 Scope of this Code. All other activities shall be subject to the Town of Hampden Residential Building Code. (Amended: 3-27-2006)~~

~~Section 5 Saving Clause.~~

~~That nothing in this Ordinance or in the Building Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any existing Ordinance; nor shall any just or legal right or remedy of or any character be lost, impaired or affected by this Ordinance.~~

~~Section 6. Date of Effect.~~

~~In accordance with Section 213 of the Town Charter, this Ordinance, as amended, shall become effective at the expiration of thirty (30) days after the date of adoption by the Town Council. (Amended: 3-27-2006)~~

The Town of Hampden hereby ordains that the "Residential Building Code Ordinance" adopted on March 27, 2006, as amended June 19, 2006, and as set forth below, is hereby repealed in its entirety, effective as of the effective date of the adoption of a new ordinance entitled Maine Uniform Building and Energy Code Ordinance.

Note: Effective December 1, 2010, the Town of Hampden began applying and enforcing the Maine Uniform Building and Energy Code ("MUBEC") as required by 10 M.R.S. §9724. Section 9724(3) provides that effective December 1, 2010, any ordinance regarding a building code that is inconsistent with MUBEC is void. Therefore, the existing Residential Building Code Ordinance is being repealed, and a new ordinance is being adopted concerning the administration and enforcement of MUBEC.

TOWN OF HAMPDEN, MAINE RESIDENTIAL BUILDING CODE ORDINANCE

Section 1 – Building Code Adopted.

~~The Town of Hampden hereby ordains that in accordance with Title 30-A, M.R.S.A. Section 3003 the "International Residential Code, 2003 edition", published by the International Code Council Inc., is hereby adopted and incorporated by reference, as the minimum standard for the construction, alteration, movement, enlargement, replacement, repair, removal, demolition, use, location, occupancy and maintenance of all one and two family dwellings and their service equipment, both existing and proposed, located within the Town of Hampden.~~

Section 2 – Inconsistent Ordinances Repealed.

~~The Ordinances known as the "Building Code Ordinance" adopted on April 5, 1993, May 25, 1959, and September 16, 2002 which previously governed one and two family dwellings are hereby repealed and replaced with the code cited above. If any provision of this code conflicts with any provision of another ordinance, the more strict provision shall prevail.~~

Section 3 – Amendments to Published Version.

Said Building Code is adopted in its published form as if fully set forth herein, except as follows:

Section R101.1 is amended to read as follows:

~~R101.1 Title: These regulations shall be known as the Residential Building Code of the Town of Hampden hereinafter referred to as "this code."~~

~~— Section 103.1 is deleted and replaced with the following:~~

~~R103.1 Building Official: Further references in this code to the "building official" shall be interpreted to mean the Code Enforcement Officer or the Building/Fire Inspector of the Town of Hampden.~~

Section R104.2 is amended to read as follows:

~~R104.2 The Building Official shall review construction documents for the erection, alteration or demolition and moving of buildings and structures. Inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.~~

Section R105 is amended to read as follows:

~~R105.1 is deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~R105.2 is deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~R105.3 is deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

~~R105.5 is deleted and replaced with Section 5.3 of the Town of Hampden Zoning Ordinance.~~

Section R106.1 is amended to read as follows:

~~R106.1 Submittal documents. Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. Where special conditions exist or inadequate information was provided on the original documents, the building official is authorized to require additional construction documents to be prepared by a State of Maine registered Professional Engineer.~~

~~Section R107 is deleted and replaced with Section 4.12 of the Town of Hampden Zoning Ordinance.~~

~~Section R108 is deleted and replaced with the Town of Hampden Fees Ordinance.~~

~~Section R110 is deleted and replaced with Section 5.3.2 of the Town of Hampden Zoning Ordinance.~~

Section R112 is amended to read as follows:

~~R112.1 Compliance With Board of Appeals Ordinance. All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. The owner of a building or structure or any other aggrieved person may appeal to the Town of Hampden Board of Appeals, from a decision of the Building Official refusing to grant a modification to the provisions of this code covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure. Such appeal shall be commenced, within 30 days of the decision. Amended 06-19-2006~~

~~R112.2 Appellate Review. The Board of Appeals may conduct an appellate review of the refusal to grant a modification to the provisions of this code covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure. Amended 06-19-2006~~

~~Basis of the Appeal. The appellant must demonstrate that the decision of the building official having jurisdiction: (1) failed to correctly interpret the true intent of this code or the rules, regulations, or ordinances adopted by the Municipal Officers, (2) the provisions of this code do not fully apply, or (3) failed to consider an equivalent form of construction can be used. Amended 06-19-2006~~

~~Modification or Reversal of the Decision. The Board of Appeals may modify or reverse the decision of the Building Official upon making a determination that (1) the true intent of this code or the rules, regulations or ordinances adopted by the Municipal Officers have been incorrectly interpreted, (2) the provisions of this code do not fully apply, or (3) an equivalent form of construction can be used. Amended 06-19-2006~~

~~R112.3 Deleted- Amended 06-19-2006~~

Section R113.2 is deleted and replaced with the following:

~~R113.2 Enforcement: Whenever the Building Official, or his/her authorized agents, determines there is a violation of any provisions of said Code, he/she shall give written notice of such violation to the property owner, lessee, occupant or their agents. Such notice shall:~~

- ~~1. Include a description of the real estate in question sufficient for identification; and~~
- ~~2. Include a description of the violation found and the citation to the provisions violated, of said Code; and~~
- ~~3. Specify the remedial action required for correction of said violation; and~~
- ~~4. Order that such violation be corrected within a reasonable period of time; and~~
- ~~5. State that an appeal from any order, decision or other action of the Building Official may be taken to the Board of Appeals by filing with the Code Official a written request for an appeal within ten (10) days of receipt of said written notice.~~

Section R113.3 is deleted and replaced with the following:

~~R113.3 Legal action and violations: When any violation of any provision of this code exists, the Building Official is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provision of this code in the name of the Town of Hampden.~~

Section R113.4 is deleted and replaced with the following:

~~R113.4 Civil penalties: The provisions of 30 A.M.R.S.A., Section 4452 shall apply to the determination of penalties for violations of this code. The minimum penalty for starting work without a permit required by this code shall be \$100.00, and the maximum penalty shall be \$2,500.00. The minimum penalty for any specific violation of this code shall be \$100.00, and the maximum penalty shall be \$2,500.00. The maximum penalty may exceed \$2,500.00, but shall not exceed \$25,000.00, when it can be shown that there has been a previous conviction of the same party within the past two (2) years for violation of the same ordinance provision. If the economic benefit resulting from the violation exceeds the applicable penalties set forth herein, the maximum civil penalties may be increased to an amount not to exceed twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or the enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements. Each day of violation shall constitute a separate violation. All civil penalties shall inure to the benefit of the Town of Hampden.~~

—Table R301.2(1) shall be substituted with the following table:

Table R301.2(1)
Climatic and Geographic Design Criteria

Ground Snow Load	Wind Speed (mph)	Seismic Design Category	Subject to Damage From				Winter Design Temp	Ice Shield Under- layment Required	Flood Hazards	Air Freezing Index	Mean Annual Temp.
			Weathering	Frost line depth	Termite	Decay					
70-lb/ft ²	90	C	Severe	5-ft.	None to Slight	None to Slight	-5°F	Yes	9/4/1987	1750	45°F

~~Chapters 10 through 42 are deleted in their entirety.~~

~~Appendix G is adopted for the purposes of swimming pools, spas and hot tubs.~~

~~Appendix J is adopted for the purposes of existing buildings and structures.~~

~~Section 4 Applicability.~~

~~The provisions of this Code shall apply to all activities addressed in Section R101.2 *Scope* of this Code. All other activities shall be subject to the Town of Hampden Building Code.~~

~~Section 5 Saving Clause.~~

~~That nothing in this Ordinance or in the Residential Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any existing Ordinance; nor shall any just or legal right or remedy of or any character be lost, impaired or affected by this Ordinance.~~

~~Section 6. Date of Effect.~~

~~In accordance with Section 213 of the Town Charter, this Ordinance shall become effective at the expiration of thirty (30) days after the date of adoption by the Town Council.~~

The Town of Hampden hereby ordains that the following Maine Uniform Building and Energy Code Ordinance be adopted.

TOWN OF HAMPDEN, MAINE
MAINE UNIFORM BUILDING AND ENERGY CODE ORDINANCE

Section 1. Maine Uniform Building and Energy Code.

Effective December 1, 2010, the Town of Hampden applies and enforces the Maine Uniform Building and Energy Code ("MUBEC") as required by 10 M.R.S. §9724. MUBEC contains the minimum standards for the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and their service equipment, both existing and proposed, located within the Town of Hampden. The purpose of this Ordinance is to establish administration and enforcement provisions in relation to MUBEC. The Town has the authority to enact this Ordinance under 10 M.R.S. §9724(5).

Section 2. Administration.

- 2.1** The Code Enforcement Officer and/or the Building/Fire Inspector of the Town of Hampden shall serve as the building official as defined in 25 M.R.S. § 2371 and shall be responsible for issuing building permits and certificates of compliance.
- 2.2** The Code Enforcement Officer and/or the Building/Fire Inspector shall be responsible for inspecting all permitted construction for compliance with all components of MUBEC, as such components may be revised from time to time by the Technical Building Codes and Standards Board.
- 2.3** The property owner, at the owner's sole expense, may elect to comply with MUBEC through inspections and reports by third-party inspectors certified pursuant to 10 M.R.S. § 9723. This option shall not be available for one-family or two-family dwellings or townhouses. The owner shall be responsible for contractual arrangements with a duly certified third-party inspector. The Code Enforcement Officer and/or the Building/Fire Inspector may issue the certificate of compliance for a building or structure upon receipt of a copy of the Construction File and an original inspection report from the certified third-party inspector. The Town of Hampden and the Code Enforcement Officer and/or the Building/Fire Inspector have no obligation to review a report from a third-party inspector for accuracy prior to issuing the certificate of compliance.
- 2.4** The administration and enforcement of MUBEC, including permits, certificates of compliance, fees, and violations, shall be in accordance with Article 5 of the Town of Hampden, Maine Zoning Ordinance and the Town of Hampden, Maine Fees Ordinance. For the purposes of MUBEC, a certificate of compliance under the Zoning Ordinance shall constitute a certificate of occupancy.

Section 3. Climatic and Geographic Design Criteria for the Town of Hampden

- 3.1.** As referenced in MUBEC, the following climatic and geographic design criteria are established for the Town of Hampden:

- 3.1.1.** Ground Snow Load: 70 lb./ft
- 3.1.2.** Wind Design
 - Speed: 90 miles per hour
 - Topographical effects: None
- 3.1.3.** Seismic Design Category: B
- 3.1.4.** Subject to Damage From
 - Weathering: Severe
 - Frost Line Depth: 5 ft.
 - Termite: None to Slight
- 3.1.5.** Winter Design Temp: -5°F
- 3.1.6.** Ice Barrier Underlayment Required: Yes
- 3.1.7.** Flood Hazards: 9/4/1987
- 3.1.8.** Air Freezing Index: 1750
- 3.1.9.** Mean Annual Temp: 45°F

Section 4. Knox Box Program

- 4.1.** The Knox Box Program for the Town of Hampden shall be used for access to buildings for emergency purposes only.
- 4.2.** The Public Safety Director or designee shall serve as the administrator for the Knox Box Program, as defined by the Knox Company.
- 4.3.** The number, make, model and location of the box(s) shall be determined by the Code Enforcement Officer, Building/Fire Inspector, or Public Safety Director or designee.
- 4.4.** All keys required to operate the building's life safety signaling and fire suppression systems, electrical rooms and panels, and a master building key shall be placed within the Knox Box.
- 4.5.** All new buildings constructed or additions to current buildings performed after the adoption of this amendment shall conform to this provision.
 - 4.5.1.** One- and two-family dwellings and townhouses are excluded from this requirement.

Section 5. Administrative Appeals.

- 5.1** The owner of a building or structure may appeal to the Town of Hampden Board of

Appeals from a decision of the Code Enforcement Officer and/or the Building/Fire Inspector refusing to grant a building permit or to issue a certificate of compliance. Any other aggrieved person may appeal the issuance of a building permit or a certificate of compliance. Any appeal must be commenced within 30 days of the decision. All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, and appeal procedures.

- 5.2** The Board of Appeals may conduct an appellate review of the matter that is the subject of the appeal. The appellant shall have the burden to demonstrate that the decision of the Code Enforcement Officer and/or the Building/Fire Inspector was contrary to the provisions of MUBEC.
- 5.3** The Board of Appeals may modify or reverse the decision of the Building Official upon making a determination that the decision of the Code Enforcement Officer and/or the Building/Fire Inspector was contrary to the provisions of MUBEC. The decision of the Board shall be final.

Section 6. Civil Penalties.

The provisions of 30-A M.R.S. §4452 shall apply to the determination of penalties for violations of MUBEC or this Ordinance. The minimum penalty for starting work without a permit required by MUBEC or this Ordinance shall be \$100.00, and the maximum penalty shall be \$2,500.00. The minimum penalty for any specific violation of this code shall be \$100.00, and the maximum penalty shall be \$2,500.00. The maximum penalty may exceed \$2,500.00, but shall not exceed \$25,000.00, when it can be shown that there has been a previous conviction of the same party within the past two (2) years for violation of the same provision. If the economic benefit resulting from the violation exceeds the applicable penalties set forth herein, the maximum civil penalties may be increased to an amount not to exceed twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or the enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements. Each day of violation shall constitute a separate violation. All civil penalties shall inure to the benefit of the Town of Hampden.

Section 7. Savings Clause.

If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, that finding shall not affect the remaining provisions of the Ordinance.

Section 8. Effective Date.

In accordance with Section 213 of the Town Charter, this Ordinance shall become effective at the expiration of thirty (30) days after the date of adoption by the Town Council.

The Town of Hampden hereby ordains that the Zoning Ordinance be amended as follows:

Additions underlined

Deletions ~~stricken~~

3.13. Business B District

3.13.1. Purpose - This district is intended to provide a location for larger commercial developments (in excess of 10,000 sq. ft. of floor area) in central locations of Hampden.

3.13.2. Permitted Uses (Subject to Site Plan Review) - Business and professional offices, retail and service businesses, take-out restaurant, small restaurant, single family dwelling, home occupation (subject to Article 4.10), accessory uses or structures and essential service.
(Amended: 12-6-04, 07-14-14)

3.13.3. Conditional Uses (Subject to Site Plan Review) - Sit-down restaurant, fast-food restaurant, outdoor dining restaurant, tavern, drive-thru business, automobile and truck sales and service, church, mixed residential/commercial uses, limited to a maximum of four (4) dwelling units, day care facilities and child care center (subject to Article 4.19), preschool, commercial school, place of assembly, nursing home, funeral home, community building, community facility, hotel and motel, buildings over 35 feet in height and buildings for essential services.
(Amended: 12-6-04, 07-14-14)

3.13.4. Lot Dimensions

Minimum Lot Area - 1 acre

Minimum Road Frontage - ~~425~~ 100 feet

Minimum Setbacks:

Street Yard - ~~35~~ 30 feet

Other Yards - ~~30~~ 15 feet

Maximum Lot Cover - 20 percent

Maximum Building Height - 35 feet

*Any lawfully existing lot of record situated in a Business B District containing road frontage of ~~100' or less~~ less than 100' as of June 1, 2014 served by public sewer with existing ~~single family dwellings and accessory structures with minimum street yard and other yards of not less than 10 feet each~~ structures may use an other yard setback of 10'. ~~Any such lots containing between 100' and 124' of road frontage may be developed for single family dwellings and accessory structures with minimum street and other yards of 10 feet each, plus 0.5 feet per side yard for each foot of road frontage in excess of 100'.~~ (Amended: 07-14-14)

3.13.5. Special District Regulations

1. Along any boundary line adjacent to a residential district a Class III landscaped buffer strip shall be provided.

2. Shopping centers shall provide accommodations for pedestrians, bicyclists, handicap accessibility and public transportation. (Adopted: 11-8-83) (Amended: 8-8-94)
3. Buildings with the exception of one and two unit dwellings constructed, reconstructed, moved or structurally altered, shall comply with the following standards:
 - a. Buildings shall have a pitched roof with a minimum pitch of six (6) in twelve (12), or have a roof form and pitch consistent with adjacent structures within 300 feet or if in the development of structures in excess of 10,000 square feet, has an appearance similar to that of a pitched roof.
 - b. Buildings shall have exterior siding that is compatible with those of the adjacent buildings, such as brick or masonry veneers, wood siding, wood shingles, aluminum or vinyl siding simulating a clapboard pattern, or hardboard siding. Inconsistent architectural elements created by illumination, form or color ~~shall be discouraged~~ are not permitted.
 - c. Buildings in excess of 10,000 square feet shall treat the predominately visible street facade(s) within the guidelines of the above materials to provide a consistent architectural appearance.
4. In order to evaluate consistency with Special District Regulation 3, the site plan submission shall include elevation drawings with details and color renderings or color computer drawings as to how the above standards are met. (Amended: 07-19-00)
5. Fast-food restaurant use shall be located on a lot having a minimum lot size of 1.5 acres, minimum frontage of 200 and no part of the vehicle queue shall be located within 100 feet of a residential structure. (Amended: 12-6-04)
6. Sale or consumption of alcoholic beverages is prohibited for outdoor dining restaurant uses in conjunction with take-out restaurants and fast-food restaurants. (Amended: 12-6-04)
7. Outdoor dining areas proposed for outdoor dining restaurant uses shall be clearly delineated on a site plan including barriers required under M.R.S.A. Title 28-A. Outdoor dining restaurant uses proposing outdoor consumption of alcoholic beverages shall comply with M.R.S.A. Title 28-A: LIQUORS §1051. Licenses generally which requires that outside areas be controlled by barriers and by signs prohibiting consumption beyond the barriers. (Amended: 12-6-04)
8. Notwithstanding the maximum building height regulation herein building height may be up to 60 feet maximum height under the following condition: Buildings in excess of 35 feet in height shall provide additional setbacks on all yards as herein stipulated: Subtract 35 feet from the proposed building height and add that difference to each base yard setback requirement. (Amended: 07-14-14)

EXAMPLE: A 60 foot tall building is proposed. By subtracting the base district building height from the proposed height the following is the result $60 - 35 = 25$ which is added to the minimum yard requirement.

Minimum Setbacks:
Street Yard - ~~35~~30 feet
Other Yard - ~~30~~15 feet

Modified Setback
~~60~~55 feet
~~55~~40 feet

The Town of Hampden hereby ordains that the following amendments to the Zoning Ordinance be adopted.

Additions underlined

Deletions ~~stricken~~

4.15. ~~Water Recreation and Sewage Lagoons~~Swimming Pools - Any swimming pool, ~~as defined, and any sewage lagoon~~ shall comply with the following requirements:

4.15.1. The swimming pool~~facility~~ shall conform with setback requirements.

4.15.2. ~~The facility shall be enclosed by a fence no less than four (4) feet high to prevent uncontrolled access.~~

4.15.2 Barrier Requirements

a. **Application.** The following provisions shall control the design of barriers for residential swimming pools, spas, and hot tubs. These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to residential swimming pools, spas, and hot tubs.

b. **Outdoor residential swimming pool.** An outdoor residential swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be surrounded by a barrier which shall comply with the following:

- i. The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches.
- ii. Openings in the barrier shall not allow passage of a 4-inch-diameter sphere.
- iii. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

- iv. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1¾ inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches in width.
- v. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches or more, spacing between vertical members shall not exceed 4 inches. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches in width.
- vi. Maximum mesh size for chain link fences shall be a 2 ¼inch square unless the fence has slats fastened at the top or the bottom which reduce the openings to not more than 1¾ inches.
- vii. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1¾ inches.
- viii. Access gates shall comply with the requirements of Section 4.15.2.b, Items i through vii, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism and openings shall comply with the following:
 - 1. The release mechanism shall be located on the pool side of the gate at least 3 inches below the top of the gate; and
 - 2. The gate and barrier shall have no opening larger than 1/2 inch within 18 inches of the release mechanism.
- ix. Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met:
 - 1. The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346-91(2010); or
 - 2. Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed and labeled in accordance with UL 2017. The

deactivation switch(es) shall be located at least 54 inches above the threshold of the door; or

3. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the Code Enforcement Officer or Fire/Building Inspector, shall be acceptable as long as the degree of protection afforded is not less than the protection afforded by Item 4.15.2.b.ix.1 or 4.15.2.b.ix.2 described above.

x. Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps:

1. The ladder or steps shall be capable of being secured, locked or removed to prevent access; or

2. The ladder or steps shall be surrounded by a barrier which meets the requirements of Section 4.15.2.b, Items i through ix. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter sphere.

c. **Indoor residential swimming pool.** Walls surrounding an indoor residential swimming pool shall comply with Section 4.15.2.b, Item ix.

d. **Prohibited locations.** Barriers shall be located to prohibit permanent structures, equipment or similar objects from being used to climb them.

e. **Barrier exceptions.** Spas or hot tubs with a safety cover which complies with ASTM F 1346-91(2010) shall be exempt from the foregoing provisions.

7.2 Definitions

~~Swimming pool:~~ An outdoor body of water enclosed in an artificial receptacle or other container, whether in or above the ground, used or intended to be used for swimming or bathing and designed for a water depth of twenty-four (24") inches or more.

Swimming pool: Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

Swimming pool, barrier: A fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

Swimming pool, indoor: A swimming pool which is totally contained within a structure and surrounded on all four sides by the walls of the enclosing structure.

| *Swimming pool, outdoor:* Any swimming pool which is not an indoor pool.

| *Swimming pool, residential:* Any swimming pool which is situated on the premises of a detached one- or two-family dwelling or a one-family townhouse not more than three stories in height.

Maine Revised Statutes

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§1629

Title 22: HEALTH AND WELFARE

§1632

Subtitle 2: HEALTH

Part 3: PUBLIC HEALTH HEADING: PL 1989, C. 487, §11 (RPR)

Chapter 266: SWIMMING POOLS

§1631. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1983, c. 436, (NEW) .]

1. Fence. "Fence" means a good quality fence or wall not less than 4 feet in height above ground surface and of a character to exclude children. The fence shall be so constructed as not to have openings, holes or gaps larger than 4 square inches, except for fences constructed of vertical posts or louvers, in which case, the openings shall not be greater than 4 inches in width with no horizontal members between the top and bottom plates. Doors and gates are excluded from the minimum dimension requirements.

[1983, c. 436, (NEW) .]

2. Swimming pool. "Swimming pool" means an outdoor artificial receptacle or other container, whether in or above the ground, used or intended to be used to contain water for swimming or bathing and designed for a water depth of 24 inches or more.

[1987, c. 22, (AMD) .]

SECTION HISTORY

1983, c. 436, (NEW) . 1987, c. 22, (AMD) .

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Office of the Revisor of Statutes

7 State House Station
State House Room 108
Augusta, Maine 04333-0007

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§1631

Title 22: HEALTH AND WELFARE

§1633

Subtitle 2: HEALTH

Part 3: PUBLIC HEALTH HEADING: PL 1989, C. 487, §11 (RPR)

Chapter 266: SWIMMING POOLS

§1632. Enclosure of swimming pool required

A fence shall be erected and maintained around every swimming pool, except that portable above-ground swimming pools with sidewalls of at least 24 inches in height are exempted. A dwelling house or accessory building may be used as part of this enclosure. All gates or doors opening through this enclosure shall be capable of being securely fastened at all times when not in actual use. [1983, c. 436, (NEW).]

SECTION HISTORY
1983, c. 436, (NEW).

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Office of the Revisor of Statutes
7 State House Station
State House Room 108
Augusta, Maine 04333-0007

The Town of Hampden hereby ordains that the following amendments to the Town of Hampden Fire Prevention Code be adopted.

Additions underlined

Deletions ~~stricken~~

TOWN OF HAMPDEN FIRE PREVENTION CODE

Sec. 1. Fire Prevention Code Adopted.

In accordance with 30-A M.R.S. Section 3003, as amended, ~~the NFPA 1, “Uniform Fire Code, of the National Fire Protection Association, 2006 Edition, as adopted and amended by the State of Maine by 16-219 C.M.R. ch 3 (effective 9/3/07), be and is hereby adopted as the Fire Code of the Town of Hampden.~~

~~BOCA National Fire Prevention Code/1990” Eighth Edition, as published by the Building Officials and Code Administrators International, Inc., is hereby adopted as the Fire Prevention Code of the Town of Hampden. Said Code is hereby incorporated by reference as the minimum standards for safeguarding life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.~~

Sec. 2. Amendments to Published Version.

~~The Uniform Fire Code NFPA 1-2006 Edition~~ BOCA National Fire Prevention Code/1990 is adopted in its published form, as amended by the State of Maine by 16-219 C.M.R. ch 3 (effective 9/3/07), as if fully set forth herein except as follows:

Section 1.10 shall be deleted in its entirety.

~~Section F-105.6~~ is amended to delete the words “code official” therefrom and to substitute the words “Municipal Officers” in place thereof.

~~Section F-111.3~~ is deleted in its entirety and replaced with the following:

~~F-111.3 Civil Penalties~~ The requirements of 30-A M.R.S.A. Section 4452 shall apply to the determination of penalties for violations of this Ordinance. The minimum penalty for a specific violation of this Ordinance shall be \$100 and the maximum penalty shall be \$2,500; provided, however, the maximum penalty may exceed \$2,500, but shall not exceed \$25,000, when it can be shown that there has been a previous conviction of the same party within the past two (2) years for violation of the same ordinance provision. Each day of violation shall constitute a separate offense. All penalties shall inure to the benefit of the Town of Hampden. Any person

undertaking an activity without first obtaining a permit shall be charged double the permit fee in addition to any civil penalties levied.

~~Section F-112.0 is deleted in its entirety and replaced with the following:~~

~~F-112.1 Compliance With Board of Appeals Ordinance:—All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. Any aggrieved person shall have the right to appeal to the “Hampden Zoning Board of Appeals” from a decision of the code official.~~

~~Such appeal shall be commenced, within (30) days of the decision.~~

~~F-112.2 Appellate Review. The Board of Appeals may conduct an appellate review of the code official’s refusal to grant a modification to the provisions of this code.~~

~~F-112.3 Basis of the Appeal. The appellant must demonstrate that the decision of the code official: (1) incorrectly interpreted the true intent of this code, (2) misapplied the provisions of this code, or (3) failed to consider an equally good or better method of fire prevention to be used.~~

~~F-112.4 Modification or Reversal of the Decision: The Board of Appeals may modify or reverse the decision of the code official upon making a determination that (1) the true intent of this code has been incorrectly interpreted, (2) the provisions of this Code do not fully apply, or (3) an equally good or better method of fire prevention is used.~~

~~Section F-201.0 GENERAL DEFINITIONS is amended to add the following definition:~~

~~“Outdoor wood-fired boiler (OWB)” (same as outdoor wood-fired furnace) means an accessory structure or appliance capable of being installed out of doors and designed to transfer or provide heat, via liquid or other means, through the burning of wood or any other nongaseous or non-liquid fuels for heating spaces other than where such structure or appliance is located, any other structure or appliance on the premises, or for heating domestic, swimming pool, hot tub or Jacuzzi water. “Outdoor wood-fired boiler or furnace” does not include a fire pit, wood-fired barbeque, or chiminea.~~

~~Section F-303.0 is deleted in its entirety.~~

~~F-308.3.1 is amended to add the following:~~

~~F-308.3.1. Outdoor wood-fired boilers or furnaces: All outdoor wood-fired boilers or furnaces shall be regulated as a special-purpose incinerator and shall require a permit under Section F-106.0 PERMITS of this Code. Outdoor wood-fired boilers or furnaces shall be operated in strict accordance with its manufacturer’s instructions and specifications. As such, they shall be used to incinerate wood only. It is a violation of this Code to burn or cause to be burned trash, rubbish, garbage, demolition debris, leaves, grass clippings, rags, cardboard, magazines or any non-approved material. Creation of dense smoke or odor upon burning is not permitted. Outdoor wood-fired boilers or furnaces shall be prohibited from operating between the dates of May 1 to October 1. The provisions of this subsection shall apply retroactively to all outdoor wood-fired boilers or furnaces located in the Town.~~

~~Section F-313.0 is deleted in its entirety and replaced with the following:~~

~~Section F-313.0 Fire Lanes~~

~~F-313.1 Purpose.~~ Fire lanes are established for the purpose of promoting the public health, safety and welfare by recognizing that there exists, and will in the future exist, buildings and other areas within the town within which and to which the public will be invited, served or housed. These buildings or other areas must be provided prompt adequate emergency services including access by fire fighters and fire fighting equipment and other emergency personnel and equipment in order to accomplish said purpose and effect the saving of life and property in emergency situations.

~~F-313.2 Definitions~~

~~1. A "Fire Lane" is defined for the purposes of this article as a designated unobstructed access roadway that will support the imposed loads of fire apparatus and at least twenty feet (20') in width and having a minimum of thirteen feet, six inches (13'6") of vertical clearance. Fire lanes over one hundred fifty feet (150') in length shall be provided with adequate roadway turning radius. See table 313.~~

~~A "Fire Lane" is further defined as an access roadway that is constructed and maintained in a manner to permit free passage of fire apparatus and other emergency equipment and personnel from a public way to all necessary areas, regardless of season of the year or weather conditions, around buildings, as may be required elsewhere in this article.~~

~~2. "Parking area" as defined in this article means lots, areas or other accommodations for the parking of motor vehicles off the street, alley or other way, which said lots, areas or other accommodations are available for use by the public either with or without charge.~~

~~F-313.3 Applicability.~~ All premises covered by this Ordinance where the Fire Department may be called upon to protect in case of fire which are not readily accessible from public roads shall be provided with fire lanes. A minimum of one side of the building on the premises shall be accessible to fire apparatus. The Authority Having Jurisdiction may require that additional sides of the building be accessible if the size and type of occupancy of the building warrants additional fire protection and accessibility.

The provisions of this article shall, in order to accomplish the stated purpose, be applicable to all proposed and existing developments, buildings and other premises which are included within the following:

A.) multi-family units with four (4) units or more in one building.

B.) all schools, whether private or public.

C.) all hospitals and clinics.

D.) convalescent homes, rest homes and/or nursing homes.

E.) all shopping centers (defined as three (3) or more businesses)

F.) all industrial and commercial buildings over 3,000 sq. ft.

G.) all places of public assembly used for gathering together of 50 or more persons.

In addition to the foregoing, fire lanes shall be provided for all buildings, except one (1) and two (2) family residences, that are set back more than 150 feet from a public road or buildings which exceed 30 feet in height and are 50 feet or more from a public road.

F-313.4 Establishment of fire lanes in the Town of Hampden

1. Each application for any use described in Section F-313.3 above shall be reviewed by the Code Official for purposes of determining the location of such fire lanes as are necessary under this section. The Official's findings, recommendations and required designations shall be reduced to writing and shall be a part of the record for said approval.
2. Within existing developments and premises to which this section is applicable, the Code Official shall designate fire lanes by written order and shall notify the owner, owners or agents of such development or premises by certified mail of such designation and of any specific requirements for compliance with this section. The Code Official shall also file one (1) copy of any order of designation of any such fire lanes with the Town Clerk. Any person aggrieved by such order may appeal in accordance with *Section F-112.0 and the Town of Hampden Board of Appeals Ordinance*.

F-313.5 Maintenance. Fire lanes established under this article shall be kept free of ice and snow and rubbish containers or other obstructions. The owner(s), agent(s), or occupant(s) of any premises to which this article is applicable, shall cause to be erected, installed and maintained at their own expense, permanent, adequate signs bearing the words "FIRE LANE NO PARKING VEHICLES WILL BE TOWED AT OWNER'S EXPENSE" in or adjacent to said fire lanes. Such owner(s), agent(s) or occupant(s) shall cause such other and further designations as are reasonably required by the Code Official to warn persons to keep said fire lanes unobstructed. Failure to maintain a fire lane in accordance with this section shall render the owner(s), agent(s) or occupant(s) of said development liable to a fine in accordance with the general penalty provisions of this Ordinance, with each continuing day of such violation constituting a separate offense.

A.) Signs are required to be placed every one hundred feet (100') facing traffic at a height of seven feet (7'). Placement variations and sign designs shall be subject to approval by the Fire Department.

3.) All curbs adjoining fire lanes or posted areas shall be painted yellow or other approved colors. If no curb is present, an eight inch (8") stripe shall be painted on the pavement.

F-313.6 Compliance. Notice of establishment of fire lanes shall prescribe a reasonable time for compliance. If compliance is not obtained within said time, then such owner(s), agent(s) or occupant(s) shall be subject to a fine in accordance with the general penalty provisions of this Ordinance. Each day following such specified time for compliance shall constitute a new and separate violation.

F-313.7 Whenever any vehicle shall be found in violation of the regulations as established above, any police officer may attach to such vehicle a notice to the owner or the operator that such vehicle has been parked in violation of the regulations. The registered owner of said vehicle shall be presumed to be the operator of said vehicle. Any motor vehicle found parked or standing in a fire lane that has been established in accordance with this article, in

addition to the foregoing, may be towed upon the direction of a police officer, to any public or private parking facility and all expense of such towing and any subsequent storage shall be borne by the registered owner or operator of such vehicle.

F-313.8 Additional Requirements (For new construction)

A.) The access roadway shall be extended to within one hundred fifty feet (150') of all portions of the exterior walls of the first story of any building as measured by an unobstructed route around the exterior of the building. All access, including bridges, shall support the loads of fire apparatus.

B.) Proposed surfaces, other than concrete or asphalt, must be approved by the Fire Department.

C.) When adjacent to buildings that are greater than thirty five feet (35') in height above natural grade, the access roadway shall have a minimum width of twenty six feet (26'). It shall be located between fifteen feet (15') and twenty five feet (25') from the building and shall be positioned parallel to one entire side of the building.

D.) When adjacent to Fire Hydrants, access roadways and fire lanes shall be a minimum of twenty six feet (26') wide for twenty feet (20') in either direction from the hydrant.

E.) Maximum grades shall not exceed fifteen percent (15%) (6.75 degrees) for concrete and twelve percent (12%) (5.4 degrees) for asphalt.

F.) Very large buildings - Buildings exceeding one hundred feet (100') in width and six hundred feet (600') in length, shall have access roadways along the two (2) long sides of the building.

The following section is added to Article 5

F-518.0 Fire Hydrants

General

F-518.1 The Fire Department shall have the authority for the approval of hydrant design and installations. This shall include the size and type of hydrants, number and size of outlets, and the threads used, as well as approval for each specific hydrant location and installation. Hydrant placement shall reflect the hazards of the locality and the needs of the Fire Department in dealing with those hazards.

F-518.2 Fire hydrant locations shall be clearly marked and maintained so that each hydrant location is visible and accessible at all times.

F-518.3 All Fire Hydrants shall be tested in the presence of the Fire Department and approved before the hydrant is placed in service.

F-518.4 After being placed in service, all hydrants shall be maintained in proper working order at all times and shall be subject to periodic testing (at least once a year and after use at a fire). If problems or deficiencies are noted, the problems shall be repaired as soon as possible and the Fire Department shall be notified.

F-518.5 If practical, buildings equipped with automatic sprinkler system, a hydrant shall be located no more than 150 feet from Fire Department sprinkler connection on the building.

~~F-518.6 Hydrants shall be of approved type and shall not have less than a six inch (6") connection with the mains. The fire flow needed shall be determined by the Fire Department.~~

~~F-518.7 Hydrants shall be equipped with NH standard external threads. Exception: existing hydrants approved by Fire Department.~~

~~F-518.8 Hydrants shall be installed in accordance with NFPA 24 and the authority having jurisdiction.~~

~~F-518.9 There shall be no parking at any time within fifteen feet (15') of any hydrant. Vehicles parked within this space shall be subject to towing at the owner's expense.~~

~~F-601.1 is deleted and replaced with the following:~~

~~F-601.1 Obstructions: A person shall not at any time place an encumbrance of any kind before or upon any fire escape or balcony intended as a means of escape from fire. The means of egress from each part of the building, including stairways, egress doors and any panic hardware installed thereon, aisles, corridors, passageways and similar elements of the means of egress, shall at all times be maintained in a safe condition and shall be available for immediate use and free of all obstructions.~~

~~Article 8 is deleted.~~

~~Article 11 is deleted.~~

~~Article 18 is deleted.~~

~~F-1900.2 is deleted in its entirety.~~

~~F-2400.2 is deleted in its entirety.~~

~~Article 25 is deleted in its entirety.~~

~~Article 26 is deleted in its entirety.~~

~~Article 27 is deleted in its entirety.~~

~~F-2800.3 is deleted in its entirety.~~

~~F-2800.4 is deleted in its entirety.~~

~~F-2805.0 is deleted in its entirety.~~

~~F-2806.0 is deleted in its entirety.~~

~~F-2807.2 is deleted in its entirety except for Table F-280.2 and replaced with the following:~~

~~F-280.2 Size: Containers and portable tanks for flammable and combustible liquids shall conform to Sections F-2801.2 and Table F-2805.2.~~

~~F-2809.0 is deleted in its entirety.~~

~~F-2900.2 is deleted in its entirety.~~

~~Article 31 is deleted in its entirety.~~

~~Article 32 is deleted in its entirety.~~

Sec. 3. Authority Having Jurisdiction.

The authority having jurisdiction in this Code shall be defined as the Town of Hampden Code Enforcement Officer, Building/Fire Inspector, Public Safety Director or other person designated by the Public Safety Director or Town Manager.

Sec. 4. Civil Penalties.

- a) Any person, firm or corporation violating any of the provisions of the Code, or failing to comply with any order issued pursuant to any section thereof, shall be guilty of a civil violation and upon conviction thereof shall be subject to a civil penalty. The requirements of Title 30-A M.R.S. Section 4452 shall apply to the determination of penalties for violations of this Ordinance. The minimum penalty for a specific violation of this Ordinance shall be \$100 and a maximum of \$2,500; provided, however, the maximum penalty may exceed \$2,500, but shall not exceed \$25,000, when it can be shown that there has been a previous conviction of the same party within the past two (2) years for violation of the same ordinance provision. Each day of violation shall constitute a separate offense. All penalties shall inure to the benefit of the Town of Hampden.
- b) The imposition of the penalties herein described, shall not prevent the legal officer of the Town from instituting appropriate action to prevent unlawful construction or to restrain, correct, or abate a violation; or prevent illegal occupancy of a building, structure or premises; or stop an illegal act, conduct of business or use of a building or structure in or about any premises.

Sec. 5. Appeals

- a) Except as expressly provided in this Ordinance, all appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance, including but not limited to filing deadlines, application requirements, fees and appeal procedures. Any aggrieved person shall have the right to appeal to the Board of Appeals from a decision of the authority having jurisdiction. This right of appeal does not include the right to appeal enforcement decisions. Any appeal shall be commenced on a form provided by the authority having jurisdiction.
- b) The Board of Appeals may modify or reverse the decision of the authority having jurisdiction upon making a determination that: (1) the true intent of this Code or the rules, regulations, or ordinances adopted by the Town have been incorrectly interpreted, (2) the provisions of this Code do not fully apply, or (3) an equally good or better method of providing for fire prevention can be used. The Board of Appeals may only modify or

reverse the decision of the authority having jurisdiction upon a concurring vote of at least four members.

Sec 6. Effective Date.

In accordance with Section 213 of the Town Charter, this Ordinance shall become effective at the expiration of thirty (30) days after the date of adoption by the Town Council.

16 DEPARTMENT OF PUBLIC SAFETY

219 OFFICE OF STATE FIRE MARSHAL

Chapter 3: FIRE PREVENTION CODE

SUMMARY: This chapter establishes the rules and regulations prescribing the minimum requirements necessary to establish a reasonable level of fire safety and property protection from the hazards created by fire and explosion.

1. This rule incorporates by reference the following National Fire Protection Association standard, available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269:

NFPA # 1, Uniform Fire Code, 2006 edition.

2. The following chapters and sections of NFPA #1, Uniform Fire Code, shall not be incorporated in the State of Maine:

Chapter 65, Section 11 (see Rules of the State Fire Marshal, Chapter 25 & Title 8 M.R.S.A §236)

Chapter 20, Sections: 2.3.5; 3.2.1; 4.2.6; 5.2.5.4; 6.2.6; 7.2.6; 8.2.6; 9.2.2; 10.2; and, 11.2

Chapter 13, Section 2.2.2

Chapter 66, Table(s): 66.2.3.2.1.1(a); 66.2.3.2.1.1(b); 66.2.3.2.1.4

3. _____ The following chapter and section shall be amended to read:

Chapter 20, Section 11.1 Application. New and existing one-and two-family dwellings shall comply with Section 20.11 and NFPA 101. Chapter 24, Section 3.5.1 of NFPA 101 shall not be incorporated in this rule.

STATUTORY AUTHORITY: 25 MRSA §2452

EFFECTIVE DATE:

August 17, 2002 - filing 2002-310

AMENDED:

August 18, 2004 - filing 2004-339

September 3, 2007 – filing 2007-363

The Town of Hampden hereby ordains that the following amendments to the Town of Hampden Life Safety Code Ordinance be adopted.

Additions underlined

Deletions ~~stricken~~

TOWN OF HAMPDEN LIFE SAFETY CODE

Section 1. Life Safety Code Adopted.

In accordance with 30-A, M.R.S.A., Section 3003, the Town of Hampden hereby ordains that NFPA 101, *Life Safety Code*, 2003~~9~~ Edition, published by the National Fire Protection Association, Inc., as adopted and amended by the State of Maine by 16-220 C.M.R. ch 20 (effective 7/27/11), ~~be and is~~ hereby adopted and incorporated by reference for the purpose of establishing minimum requirements to provide a reasonable degree of safety from fire and other emergencies in new and existing buildings and structures.

Section 2. Definitions for the Life Safety Code.

2.1. The term "authority having jurisdiction" used in the Life Safety Code and this ordinance shall mean the Town of Hampden ~~Fire Department, the Building/Fire Inspector, or the Code Enforcement Officer, Public Safety Director or other person designated by the Public Safety Director or Town Manager.~~

2.2. The term "legal counsel" used in the Life Safety Code shall mean the Town Attorney.

Section 3. Amendments to the Life Safety Code.

3.1. The NFPA 101, *Life Safety Code*, 2009 Edition is adopted in its published form, as amended by the State of Maine by 16-220 C.M.R. ch 20 (effective 7/27/11), as if fully set forth herein except as follows:

- i. Provisions of the Life Safety Code shall not apply to one- and two-family dwellings existing prior to adoption of this amendment, unless the dwellings are being used for a purpose which requires a State of Maine License.

The following articles and sections shall be enacted in addition to those set forth in the Code.

3.12Section 4. Administration and Enforcement.

4.1 It shall be the duty and responsibility of the authority having jurisdiction ~~Fire Department, the Building/Fire Inspector, or the Code Enforcement Officer~~ to enforce the provisions of the Life

Safety Code as herein set forth. The designated enforcement officer of this code is herein referred to as the authority having jurisdiction.

- | 3.234.2. The authority having jurisdiction shall have the legal authority to inspect all structures and premises, except existing owner occupied single family dwellings, for the purpose of ascertaining and causing to be corrected any conditions that endanger life from fire, smoke, fumes, panic or any violations of the provisions or intent of this Code, or any other ordinance affecting fire and life safety.
- | 3.23.14.3. In cases where new construction or change of use of an existing building is proposed, the authority having jurisdiction shall require plans prepared and certified by a registered State of Maine Architect or registered State of Maine Professional Engineer, be submitted to the ~~State of Maine Firemarshal's Office~~Office of State Fire Marshal for review. Once reviewed by the Office of State Fire Marshal ~~Firemarshal's Office~~ the applicant shall submit a copy of said plans bearing the stamp of the Office of State Fire Marshal ~~Firemarshal's Office~~ with application for either a building permit or certificate of compliance. The requirements of this section shall not pertain to one- and two-family dwellings.
- | 3.344.4. Whenever necessary for the purpose of enforcing the provisions of this Code, or whenever the authority having jurisdiction has reasonable cause to believe that there exists in any structure or premises unsafe conditions, the authority having jurisdiction shall be permitted to enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the authority having jurisdiction by this Code; provided that if such structure or premises be occupied, the authority having jurisdiction shall first present proper credentials and request entry. If such entry is refused, the authority having jurisdiction shall have recourse to every remedy provided by law to secure entry.
- | 3.454.5. The authority having jurisdiction, duly authorized representative or employee charged with enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally and is hereby relieved from all personal liability for any damages to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against any employee because of an act performed in the lawful discharge of duties and under the provisions of this Code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The authority having jurisdiction or any subordinates of the authority having jurisdiction shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this code; any employee acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of the official duties in connection therewith.
- | 3.564.6. The authority having jurisdiction, and the Town of Hampden, shall not be liable under this Code for damage to persons or property, by reason of the inspection or reinspection of buildings, structures or equipment authorized herein, or failure to inspect or reinspect such buildings, structures or equipment by reason of the approval or disapproval of any building, structure or equipment authorized herein.

3.674.7. The Municipal Officers shall have the authority as necessary in the interest of public safety, health and the general welfare to promulgate rules and regulation, to interpret and implement the provisions of this Code, to secure the intent thereof and to designate requirements applicable because of climatic or other conditions. Such rules shall not have the effect of waiving any life safety requirements specifically provided in this Code, or violating accepted engineering practice involving public safety.

3.784.8. Whenever the authority having jurisdiction observes an apparent or actual violation of a provision of this Code or other codes or ordinances under the authority having jurisdiction, the authority having jurisdiction shall prepare written notice of violation describing the condition deemed unsafe and specifying time limits for the required repairs or improvements to be made to render the building, structure or premises safe and secure. The written notice of violation of this Code shall be served upon the owner, a duly authorized agent, or upon the occupant or other party responsible for the conditions under violation. Such notice of violations shall be served either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address, delivery to a person in charge of the premises, or by posting a copy of the notice in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed the equivalent of personal notice.

3.894.9. If the notice of violation is not complied with within the time specified by the authority having jurisdiction, the authority having jurisdiction shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this Code or any of order or direction made pursuant thereto.

Section 5. Civil Penalties.

3.9105.1. Any person, firm or corporation violating any of the provisions of the Code, or failing to comply with any order issued pursuant to any section thereof, shall be guilty of a civil violation and upon conviction thereof shall be subject to a fine. The requirements of 30-A, M.R.S.A., Section 4452 shall apply to the determination of penalties for violations of this Ordinance. The minimum penalty for a specific violation of this Ordinance shall be \$100 and a maximum of \$2,500; provided, however, the maximum penalty may exceed \$2,500, but shall not exceed \$25,000, when it can be shown that there has been a previous conviction of the same party within the past two (2) years for violation of the same ordinance provision. Each day of violation shall constitute a separate offense. All penalties shall inure to the benefit of the Town of Hampden.

3.1015.2. The imposition of the penalties herein described, shall not prevent the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct, or abate a violation; or prevent illegal occupancy of a building, structure or premises; or stop an illegal act, conduct of business or use of a building or structure in or about any premises.

Section 6. Appeals.

~~3.1126.1. Compliance With Board of Appeals Ordinance.~~ Except as expressly provided in this Ordinance, ~~a~~All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, ~~decisions of the Board of Appeals and subsequent appeals to Superior Court.~~ Any aggrieved person shall have the right to appeal to the Board of Appeals from a decision of the authority having jurisdiction. The right of appeal does not include the right to appeal enforcement decisions. Any~~Such~~ appeal shall be commenced on a form provided by the authority having jurisdiction, ~~within 30 days of the decision.~~

~~3.123. Appellate Review.~~ The Board of Appeals may conduct an appellate review of the decision of the authority having jurisdiction.

~~3.134 Basis of the Appeal.~~ The appellant must demonstrate that the decision of the authority having jurisdiction: (1) failed to correctly interpret the true intent of this Code or the rules, regulations, or ordinances adopted by the Municipal Officers, (2) the provisions of this Code do not fully apply, or (3) an equally good or better method of providing for life safety can be used.

~~3.1456.2. Modifying or Reversing the Decision of the Municipal Authority.~~ The Board of Appeals may modify or reverse the decision of the authority having jurisdiction upon making a determination that: (1) the true intent of this Code or the rules, regulations, or ordinances adopted by the Municipal Officers Town have been incorrectly interpreted, (2) the provisions of this Code do not fully apply, or (3) an equally good or better method of providing for life safety can be used.

Section 47. Effective Date.

In accordance with Section 213 of the Town Charter, this Ordinance shall become effective at the expiration of thirty (30) days after the date of adoption by the Town Council.

Chapter 20: FIRE SAFETY IN BUILDINGS AND STRUCTURES

SUMMARY: This rule incorporates by reference National Fire Protection Association (NFPA) #101, *Life Safety Code*, 2009 edition; NFPA #80, *Standard for Fire Doors and other Opening Protectives*, 2010 edition; and NFPA #220, *Standard on Types of Building Construction*, 2006 edition. Specific provisions of the Life Safety Code have been excluded to avoid conflict with the *Maine Uniform Building and Energy Code*, and several provisions have been modified to make the provisions specific to Maine. This chapter also includes rules governing portable classrooms and indoor and special pyrotechnic events.

1. This rule incorporates by reference National Fire Protection Association Standard #101, *Life Safety Code*, 2009 edition. All rights reserved by the National Fire Protection Association. Copies of this standard are available through the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269.
 - A. **Unvented fuel-fired heaters.** Unvented fuel-fired heaters shall not be used in a bedroom or bathroom or in a manufactured home.
 - B. **Extinguishment Requirements.** The following provisions of NFPA # 101, the *Life Safety Code*, 2009 edition, are not incorporated by reference:
 1. Chapter 12, section 12.3.5.3, subsections 3 & 4; and,
 2. Chapter 13, section 13.3.5.3, subsections 1 & 2.
 - C. **Extinguishment Requirements in One- and Two- Family Dwellings.** Section 24.3.5.1 of NFPA #101, the *Life Safety Code*, 2009 edition, is not incorporated by reference.
 - D. **Stair risers, guards, treads, and tread nosing.** The following provisions of NFPA # 101, *Life Safety Code*, 2009 edition, are modified as indicated: The maximum height of risers as prescribed in Chapter 24, Section 24.2.5 is modified to permit a maximum 7 ¼" riser for newly constructed stairs in one- and two family dwellings only. The minimum height of guards as prescribed in Chapter 24, Section 24.2.5 is modified to permit a minimum guard height of 36" for newly constructed stairs in one- and two family dwellings only. The minimum tread depth as prescribed in Chapter 24, Section 24.2.5 shall be amended to permit a 10" tread depth for newly constructed stairs in one-and two family dwellings only. Tread nosing as prescribed in Chapter 7, Section 7.2.2.3.5 is modified to permit a nosing at least ¾" but not more than 1 ¼" in depth for newly constructed one-and two family dwellings.
 - E. **Separated Occupancies.** Tables 6.1.14.4.1 a & b, "Required Separation of Occupancies (hours.)" shall be cross referenced with Table 508.4 *Required Separation of Occupancies* of the 2009 *International Building Code(IBC)*. Where separation requirements in the two tables conflict, separation requirements set forth in the IBC table control.

- F. **Accessory Occupancies.** Chapter 6, Section 6.1.14.1.3 of NFPA # 101, *Life Safety Code*, 2009 edition, is not incorporated. Section 508.2 *Accessory Occupancies*, of the 2009 *International Building Code* governs.
 - G. **Dead End Corridors.** The following provisions of NFPA # 101, *Life Safety Code*, 2009 edition, are modified as indicated: Chapter 18, Section 18.2.5.2 is modified to require dead end corridors not to exceed 20 feet. Chapter 32, Section 32.3.2.5.4 is modified to require dead end corridors not to exceed 50 feet. Chapter 42, Table 42.2.5 is modified to require that a dead end corridor in an ordinary hazard storage occupancy protected by a sprinkler system not exceed 50 feet. A dead end corridor in an ordinary hazard storage occupancy not protected by a sprinkler shall not exceed 20 ft.
2. This rule incorporates by reference the National Fire Protection Association Standard #80, *Standard for Fire Doors and other Opening Protectives*, 2010 edition. All rights reserved by the National Fire Protection Association. Copies of this standard are available through the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269.
 3. This rule incorporates by reference the National Fire Protection Association Standard #220, *Standard for Types of Building Construction*, 2006 edition. All rights reserved by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269.
 4. **Portable Classrooms**

Portable Classrooms shall mean buildings manufactured and moved to a site to provide educational space for educational facilities. Similar portable classrooms may be site built if the installation follows these requirements and a construction permit is obtained in accordance with Title 25 M.R.S.A. §2448.

 - A. All portable classrooms shall be placed in such a manner that no part of the portable classroom is within 20 feet horizontally to any other building.
 - B. Groups of portable classrooms shall maintain 20 feet of clearance between individual buildings.
 - C. All groups of buildings under this construction shall have a construction permit issued by the Office of State Fire Marshal as required by Title 25 M.R.S.A. §2448.
 - D. Buildings and groups of buildings on the same property shall have fire alarm systems as required (NFPA 101, 20069 edition, Sections 14.3.4 and 15.3.4) and all systems shall be interconnected.
 - E. Fire Drills shall be conducted in conjunction with drills in main educational buildings.
 - F. Portable classrooms shall meet all egress requirements of the adopted National Fire Protection Association Standard #101, *Life Safety Code*, 2009 edition.

- G. No installation shall be completed unless a letter from the municipal fire authority has been received by the Office of State Fire Marshal. This letter must indicate that the fire authority's ability to respond to fire emergencies will not be hindered by the placement of the portable classrooms and that the installations of the portable classrooms do not violate local ordinances.

5. Indoor Pyrotechnic Events

Indoor events using special effect display features, as defined in Title 8 M.R.S.A. §221-A, shall be held only:

- A. In buildings fully protected by automatic fire sprinkler systems meeting all requirements of National Fire Protection Association #13, *Installation of Sprinkler Systems*, 2006 edition.
- B. With the prior approval of the Office of State Fire Marshal in accordance with the requirements of Title 8 M.R.S.A., Chapter 9-A; Rules Chapters 20 and 26; and the following:
 - 1. The announcement required by Chapter 20, Section 9 shall be made regardless of capacity.
 - 2. The special effect display shall be conducted by a licensed Fireworks Technician with appropriate Indoor and/or Flame Effect endorsement.
 - 3. The event shall be monitored by the Office of State Fire Marshal.
 - 4. An inspection by the Office of State Fire Marshal shall be completed prior to the commencement of the event with all scenery, effects, and equipment in place.

6. Special Pyrotechnic Amusement Events

- A. A special pyrotechnic amusement event is an event, including but not limited to such events as a magic show or theatrical performance, which uses no more than 1 ounce of flash paper, or small open flame devices such as candles, matches or lighters, or similar devices approved for use at special pyrotechnic amusement events by the Office of State Fire Marshal.
- B. An operator of a special pyrotechnic amusement event shall register with the Office of State Fire Marshal and provide a list of scheduled events and their locations. Such registration shall be valid for a period of 1 year. Location and event schedules shall be updated with the Office of State Fire Marshal no less than 10 days prior to any newly scheduled event or location.
- C. An operator or manager of a special pyrotechnic amusement event shall obtain licensure as a Fireworks Technician with indoor pyrotechnic endorsement pursuant to Title 8 M.R.S.A. Chapter 9-A or conduct the event under the direct supervision of one holding this license.

7. **Announcement required**

At every event with a defined start time, where an assembly occupancy can accommodate 300 occupants or more, the event manager, operator, sponsor, or a designee shall make an audio announcement to all occupants, prior to the commencement of the event, regarding the following:

- A. Location of exits;
- B. Smoking rules and regulations;
- C. Use of open flame devices;
- D. What to do in case of emergency evacuation; and
- E. Location of any first aid stations.

Such events include but are not limited to those held at armories, assembly halls, auditoriums, dance halls, exhibition halls, gymnasiums, special amusement buildings regardless of occupant load, and theaters.

STATUTORY AUTHORITY: 25 M.R.S.A. §2452 and 8 M.R.S.A. §236

EFFECTIVE DATE:

December 22, 1977 - filed September 27, 1978

AMENDED:

October 24, 1982
 September 30, 1985
 September 1, 1988
 September 1, 1991
 September 1, 1994

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 15, 1996

AMENDED:

January 2, 1999

REPEALED AND REPLACED:

August 7, 2001 - formerly Ch. 29

AMENDED:

March 11, 2003 - filing 2003-67 (*EMERGENCY, expires June 9, 2003*)
 September 1, 2003 - filing 2003-302
 August 18, 2004 - filing 2004-345

NON-SUBSTANTIVE CORRECTIONS:

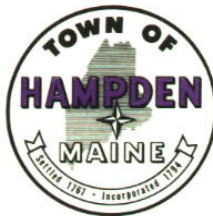
September 13, 2004 - corrected section numbering

AMENDED:

September 21, 2004 - filing 2004-409, section 1.B reinserted

September 3, 2007 – filing 2007-371

July 27, 2011 – filing 2011-250



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Subdivision Amendments
DATE: February 2, 2015

The Comprehensive Plan calls for Hampden's ordinances to become compliant with current state law. The subdivision ordinance does not contain the review standards called out in the statute. The attached document is an initial effort to place those standards in Article 350 (starting on page 19) of the ordinance. The statute language is in **bold face**.

**TOWN OF HAMPDEN
Draft**

The Town of Hampden Hereby Ordains
Proposed Amendments to the Subdivision Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

SUBDIVISION ORDINANCE

Prepared for the

TOWN OF HAMPDEN, MAINE

By

***PENOBSCOT VALLEY REGIONAL PLANNING COMMISSION
FEBRUARY 1982***

Financial assistance in the preparation of this document was provided by Maine's Coastal Program through funding provided by the U. S. Department of Commerce, Office of Coastal Zone Management, under the Coastal Zone Management Act of 1972 as amended.

ADOPTED BY HAMPDEN TOWN COUNCIL: May 17, 1982

EFFECTIVE DATE: June 17, 1982

TEXT AMENDED

AMENDED: April 4, 1983 deletion
EFFECTIVE: May 6, 1983

AMENDED: May 7, 1984 331.2.5
EFFECTIVE: June 6, 1984

AMENDED: November 18, 1985 532.6 1030
EFFECTIVE: December 18, 1985

AMENDED: December 1, 1986 620
EFFECTIVE: January 1, 1987

AMENDED: September 21, 1987 545.3D 554.4
EFFECTIVE: October 20, 1987

AMENDED: October 5, 1987 331.2.4 332.1.1 332.1.4 342.5
EFFECTIVE: November 3, 1987

AMENDED: March 7, 1988 565
EFFECTIVE: April 6, 1988

AMENDED: June 6, 1988 331.2.2 332.1.2
EFFECTIVE: July 5, 1988

TEXT AMENDED

AMENDED: September 19, 1988 EFFECTIVE: October 18, 1988	1030						
AMENDED: March 13, 1989 EFFECTIVE: April 11, 1989	deletion						
AMENDED: June 19, 1989 EFFECTIVE: July 19, 1989	332.2.3	332.2.4	332.2.12	443	460.26	554.4	
AMENDED: June 3, 1991 EFFECTIVE: July 3, 1991	544.3	545.3D					
AMENDED: April 6, 1992 EFFECTIVE: May 6, 1992	deletion						
AMENDED: October 4, 1993 EFFECTIVE: November 3, 1993	513	531.8					
AMENDED: December 20, 1993 EFFECTIVE: January 19, 1994	1031						
AMENDED: February 7, 1994 EFFECTIVE: March 9, 1994	1021	1032	1033				
AMENDED: December 4, 1995 EFFECTIVE: January 3, 1996	552.15.C	552.25	552.26				
AMENDED: May 20, 1996 EFFECTIVE: June 19, 1996	541	543					
AMENDED: February 12, 2002 EFFECTIVE: March 14, 2002	410 475	420 481	431 483.3	432 521	450 531.3A	460.3 532.3	470 532.5
AMENDED: February 12, 2002 EFFECTIVE: March 14, 2002	520	530					
AMENDED: November 17, 2003 EFFECTIVE: December 17, 2003	320	330					
AMENDED: October 3, 2005 EFFECTIVE: November 2, 2005	521	522	524	552.15.B	552.16		
AMENDED: August 6, 2007 EFFECTIVE: September 5, 2007	565						
AMENDED: July 14, 2014 EFFECTIVE: August 13, 2014	542						

**TOWN OF HAMPDEN, MAINE
SUBDIVISION ORDINANCE
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ARTICLE 100
DECLARATION OF PURPOSE

The purpose of these standards shall be to assure the comfort, convenience, safety, health, and welfare of the people, to protect the environment, to promote the development of an economically sound and stable community, and to uphold the state Subdivision Law (MRSA) Title 30-A MSRA §4401 through §4407 as amended Title 30, Section 4956.

ARTICLE 200
AUTHORITY AND ADMINISTRATION

210. Authority - This Ordinance is enacted pursuant to and consistent with Title 30-A MSRA §4401 through §4407 as amended Title 30 MRSA Section 4956; the Subdivision Law.

220. Administration and Enforcement

221. This Ordinance shall be known and may be cited as the “Subdivision Ordinance of the Town of Hampden, Maine.”

222. The Planning Board of the Town of Hampden, with the assistance of the code enforcement officer and the Town Manager (as specified in the ordinance) shall administer this Ordinance.

223. The provisions of this Ordinance shall pertain to all land proposed for subdivision as herein defined within the boundaries of the Town of Hampden.

224. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the Hampden Planning Board and recorded in the Penobscot County registry of deeds, nor shall such person, firm, corporation or other legal entity sell or convey any land in such approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term “permanent marker” includes but is not limited to the following: a granite monument, a concrete monument, an iron pin or a drill hole in ledge. No subdivision plat or plan shall be recorded by the register of deeds which has not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision for which a plan has not been approved.

225. The Hampden Planning Board, the Town Council of the Town of Hampden, the code enforcement officer, or the Town of Hampden may institute proceedings to enjoin any violations of this Ordinance, and if a violation is found in court, the Town of Hampden may be allowed attorney fees.

226. Any person, firm, or corporation or other legal entity found guilty of a violation of this Ordinance shall be punished by a fine of not more than one thousand dollars (\$1,000) for each such occurrence.

ARTICLE 300
PROCEDURES FOR SUBDIVISION REVIEW

310. *Introduction* - The subdivider's application for subdivision approval will not be considered complete until a Final Plan, including all required information, has been submitted to the Planning Board. While the subdivider may submit the Final Plan and all related materials to the Planning Board without any prior contact with the board, the subdivider is encouraged to follow the procedures outlined in this Ordinance. The procedures herein outlined are designed to prevent problems related to the statutory time limits for reviewing complete applications and to provide opportunity for a dialogue between the Planning Board and the subdivider so that the approved subdivision will be designed and built in a manner that fulfills the purpose of this ordinance.

320. *Preapplication Meeting and Submission of a Sketch Plan*

321. The subdivider shall submit at least twelve (12) copies of a sketch plan and application to the code enforcement officer at least fifteen (15) days in advance of the regularly scheduled meeting at which she/he wishes it to be considered. The subdivider or his/her authorized agent shall be present at the meeting to discuss the proposal with the Planning Board.

322. The purposes of this preapplication conference between the subdivider and the Planning Board are:

1. To classify the subdivision as a major or a minor subdivision.
2. To provide an opportunity for the subdivider and the Planning Board to informally review the subdivider's ideas for use of the land;
3. To discuss procedures for subdivision review and approval;
4. If road construction is involved in the proposal, to classify the road as either minor or collector;
5. To discuss any apparent potential problems associated with the subdivision; and
6. To arrange for on-site inspection of the subdivision site.

323. The sketch plan shall consist of an outline of the proposed subdivision, drawn on a map drawn to scale, showing the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch. Accompanying the sketch plan shall be a written application which includes a description of existing covenants and easements and zoning; medium intensity soils survey information (obtainable from the Penobscot County Soil Conservation Service); information about available community facilities and utilities on or near the site; information describing the subdivision proposal including the number of residential lots, typical lot width, and depth, plans regarding sewer and water service and road construction; and any proposed nonresidential areas. An application form, available at the town office, shall be used to submit the written information.

324. Other than the classification of the subdivision and the roads, if necessary, no binding commitments shall be made between the subdivider and the board at this stage.

325. The Planning Board shall act on the sketch plan within forty-five (45) days of the time it is submitted and shall notify the subdivider of its action in writing, within fifteen (15) days of its action.

326. Inspection of the site. In order for the Planning Board to be more fully informed about the site, the subdivider shall arrange an inspection of the site with the code enforcement officer and the Planning Board or an individual appointed by the chairman to act as the board's representative for the inspection. The on-site inspection must be considered the next step in the subdivision review process.

330. Review of Major Subdivision

331. Preliminary Plan

331.1. *Purpose* - The purpose of Preliminary Plan review is to give the Planning Board an opportunity to review the subdivider's proposal while it is in the planning stage and to make recommendations to the subdivider as seem appropriate based on state and local laws and regulations. The intent is that all major issues relative to the subdivision will be identified and resolved prior to the submission of the Final Plan.

331.2. Procedure

1. Within six (6) months after classification of the sketch plan as a major subdivision by the Planning Board, the subdivider shall submit an application for the consideration of a Preliminary Plan for a major subdivision. The Preliminary Plan shall substantially conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.
2. The application for approval of the Preliminary Plan shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance, payable by check to the Town of Hampden, Maine. (*Amended: 06-06-88, 11-17-03*)
3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.
4. The time of submission of the Preliminary Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least forty-five (45) days prior to which fifteen (15) copies of the application for Preliminary Plan approval, complete and accompanied by the required fee and all data required by section 331.3 of this Ordinance shall have been filed with the code enforcement officer. (*Amended: 10-05-87*)
5. A public hearing shall be held by the Planning Board at the time of submission of the preliminary subdivision plan. Said hearing shall be advertised in a newspaper of general circulation in the town at least ten (10) days prior to the hearing. A notice of said hearing shall be mailed to each land owner abutting the proposed development and to each landowner within three hundred (300) feet of the property line of the proposed development. Landowners shall be considered to be those against whom property taxes are assessed. Failure of any landowner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Planning Board. Responsibility for such notification shall be assumed by the code enforcement officer. The applicant shall

bear all associated costs of advertisements and notifications. If site plan review is required it shall be combined with this hearing. (*Amended: 05-07-84*)

6. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public and the Town Council relative to any municipal ordinance, standard, or regulation which is applicable to the proposed subdivision and relative to the relationship of the subdivision to the ordinance, standard, or regulation.
7. Within thirty (30) days after the public hearing, the Planning Board shall take action to give preliminary approval, with or without modifications, or to disapprove such Preliminary Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within thirty (30) days of the public hearing shall constitute approval of the Preliminary Plan.
8. When granting approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to:
 - A. The specific changes which it will require in the Final Plan;
 - B. Specific information which is over and above that required in section 332.2 of this Ordinance which will be required in the Final Plan review (such additional information must be reasonably related to the review of the subdivision);
 - C. The character and extent of the required improvements for which waivers have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare.
9. Approval of a Preliminary Plan shall not constitute approval of the Final Plan but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any.

331.3. *Submissions* - The preliminary subdivision plan shall be submitted, in the appropriate number of copies, which may be either printed or reproduced on paper. The Preliminary Plan shall be not less than eight and one-half (8-1/2) inches by eleven (11) inches and not more than forty-eight (48) inches by thirty-six (36) inches. The plan shall be drawn to a scale in which one inch equals no more than one hundred (100) feet and shall be oriented so the north direction is the same on all sheets. The Preliminary Plan and supporting data shall include the following information.

331.3.1. *Information About the Applicant*

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| <i>map & text</i> | 1. Name of owner indicated on the map plan and in accompanying written information. |
| <i>map & text</i> | 2. Name of applicant (if other than owner) indicated on the map plan and in accompanying written information. |
| <i>text</i> | 3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of secretary of state's registration in accompanying written information. |

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| <i>text</i> | 4. Name of applicant's authorized representative in accompanying written information. |
| <i>map & text</i> | 5. Name, address, and number of registered professional engineer or land surveyor indicated on the map plan and in accompanying written information. |
| <i>text</i> | 6. Address to which all correspondence from the Planning Board should be sent in accompanying written information. |
| <i>text</i> | 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.) in accompanying written information? |
| <i>text</i> | 8. What interest does applicant have in any property abutting parcel to be subdivided in accompanying written information? |
| <i>text</i> | 9. State whether preliminary plat plan covers entire, contiguous holdings of applicant or not in accompanying written information. |

331.3.2. Information About the Parcel to be Subdivided

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| <i>text</i> | 1. Location of property: Book and page (from register of deeds) in accompanying written information. |
| <i>text</i> | 2. Location of property: Map and lot (from assessor's office) in accompanying written information. |
| <i>map</i> | 3. Map survey of tract to be subdivided, certified by a registered land surveyor, tied to established reference points (attach to application) indicated on the map plan. |
| <i>map & text</i> | 4. Current zoning of property indicated on the map plan and in accompanying written information. |
| <i>text</i> | 5. Acreage of parcel to be subdivided in accompanying written information. |
| <i>map & text</i> | 6. A soils report, identifying soil types and location of soil test areas indicated on the map plan. Evidence of soil suitability according to the Maine State Plumbing Code shall be presented if subsurface sewage disposal is proposed. There shall be at least one (1) soil test per lot if subsurface sewage disposal is proposed. |
| <i>map</i> | 7. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided indicated on the map plan. |
| <i>map & text</i> | 8. Indicate the nature of any restrictive covenants to be placed on the deeds indicated on the map plan and in accompanying written information. |

331.3.3. *Information About the Subdivision*

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| <i>map & text</i> | 1. Proposed name of subdivision indicated on the map plan and in accompanying written information. |
| <i>map & text</i> | 2. Number of lots and lot sizes indicated on the map plan and in accompanying written information. |
| <i>map</i> | 3. Date, north point, graphic map scale indicated on the map plan. |
| <i>map</i> | 4. Proposed lot lines with approximate dimensions and suggested locations of buildings, subsurface sewage disposal systems, and wells indicated on the map plan. |
| <i>map & text</i> | 5. Location of all parcels to be dedicated to public use and the conditions of such dedication indicated on the map plan and in accompanying written information. |
| <i>map</i> | 6. A location map, drawn at a scale in which one (1) inch equals no more than five hundred (500) feet, showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area indicated on the map plan. The location map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision (attach to application). |
| <i>map</i> | 7. Location and size of significant existing physical features including but not limited to wetlands, floodplains, watercourse, rock outcrops and trees of twelve-inch caliper diameter at chest height indicated on the map plan. |
| <i>map</i> | 8. Location and size of any existing sewers, watermains, culverts and drains on the property indicated on the map plan. |
| <i>map</i> | 9. Location, names and widths of existing and proposed streets, highways, easements, building setback lines, parks and other open spaces indicated on the map plan. |
| <i>map</i> | 10. Contour lines at an interval of not more than two (2) feet in elevation, unless otherwise specified by the Planning Board indicated on the map plan. All elevations shall be referred to USGS datum. |
| <i>map</i> | 11. Typical cross-sections of proposed grading for roadways and sidewalks, including materials to be used on roadways and sidewalks indicated on the map plan. |
| <i>map</i> | 12. Storm drainage plan indicating the approximate location and size of proposed lines, catch basins and means of disposal indicated on the map plan. |
| <i>map</i> | 13. The approximate location and size of all proposed water and sewer lines, valves, pump stations and hydrants. Also connections to existing sewer and water systems or alternative methods of water supply and sewage disposal shall be shown indicated on the map plan. |
| <i>map</i> | 14. Location of all other existing and proposed utilities such as electricity and telephone indicated on the map plan. |

- map* 15. Location and type of landscaping including natural growth to be left in place and nursery stock to be planted indicated on the map plan. This information may be indicated on a Preliminary Plan print.
- map* 16. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale in which one (1) inch equals not more than five hundred (500) feet showing an outline of the subdivided area with its proposed streets and an indication of the probable future street system in the remaining portion of the tract indicated on the map plan. The part of the subdivider's holding submitted, shall be considered in light of the entire holding.
- map* 17. If the preliminary application covers more area than the Final Plan will cover, a map showing the phasing of the entire project, drawn at a scale in which one inch equals not more than five hundred (500) feet and indicating the proposed timing of each phase indicated on the map plan.

332. *Final Plan*

332.1. *Procedure*

1. Within six (6) months of the date of Planning Board action on the Preliminary Plan, the subdivider shall submit the Final Plan to the Planning Board. Failure to submit the Final Plan within the designated time period shall require resubmission of the Preliminary Plan to the Planning Board. However, the subdivider may submit a Final Plan for only part of the subdivision approved in the Preliminary Plan. In that case, each successive phase shall be submitted within three (3) years of the date of approval of the preceding phase. The Final Plan shall consist of two (2) original transparencies of all maps or drawings and fifteen (15) copies of all items necessary to complete the submission. *(Amended: 10-05-87)*
2. The application for approval of the Final Plan shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance. The cost of the following improvements shall be included in the calculation of cost: sewer, storm drainage, and/or street work. The subdivider shall be responsible for providing the Town Manager with an estimate of construction cost, prepared by an engineer acceptable to the Town Manager. The Town Manager shall be responsible for certifying the acceptability of the estimate. *(Amended: 06-06-88, 11-17-03)*
3. The subdivider, or his duly authorized representative shall attend the meeting of the Planning Board to discuss the Final Plan.
4. The time of submission of the Final Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least forty-five (45) days prior to which the complete application, accompanied by the required fee, shall have been filed with the code enforcement officer. The Planning Board shall issue the subdivider a dated receipt for the Final Plan at the time of submission of the Final Plan. *(Amended: 10-05-87)*
5. Within thirty (30) days from receipt of a Final Plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the subdivider and begin its full evaluation of the proposed subdivision.
6. Prior to submitting the Final Plan, the subdivider shall file an improvement guarantee with the Town Manager. The purpose of the guarantee is to insure that all required subdivision improvements shall be satisfactorily completed. The amount and form of the guarantee shall be that defined under Article 400 of this Ordinance.
7. *Public hearing* - The board may vote to hold a public hearing on the proposed subdivision. If so, such hearing shall be held within thirty (30) days of having received a complete Final Plan (as determined under section 332.1 item 5.). The manner described in section 331.2 item 5 of this Ordinance. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the ordinance, standard, or regulation.
8. *Review and Action on Final Plan* - The board shall, within thirty (30) days of a public hearing; or within sixty (60) days of having received a complete application, if no public

hearing is held; or within such other time limit as may be mutually agreed to by the board and the subdivider, review the application and deny or grant approval of the proposed subdivision, or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and state law and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the state subdivision law.

9. Upon approval of the plan, at least a majority of the board members present and eligible to vote shall sign both transparencies. The date and any conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the registry of deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action with respect to the Final Plan.
10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan unless the plan is first resubmitted to the Planning Board and the board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void, and the board shall institute proceedings to have the plan stricken from the records of the registry of deeds.
11. The subdivider shall file a signed subdivision plan at the Penobscot County registry of deeds within ninety (90) days of the approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension which shall not exceed two (2) additional ninety-day periods.

332.2. *Submissions* - The Final Plan shall be submitted in the appropriate number of paper and transparent copies. The Final Plan shall be not less than eight and one-half (8-1/2) inches by eleven (11) inches and not more than forty-eight (48) inches by thirty-six (36) inches. The plan shall be drawn at a scale in which one inch equals no more than one hundred (100) feet and shall be oriented so the north direction is the same on all sheets. In addition to all items required on the Preliminary Plan and information requested by the Planning Board during the Preliminary Plan review, the following items shall be required as part of the Final Plan submission unless otherwise indicated by the Planning Board.

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| <i>map</i> | 1. <i>Registered Land Surveyor or Engineer</i> The name, registration number, seal and signature of the surveyor and/or engineer who prepared the plan. This information shall be on all sheets including cross-section and profile sheets also indicated on the map plan. |
| <i>map</i> | 2. <i>Streets</i> - The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings indicated on the map plan. |
| <i>map</i> | 3. <i>Street Profiles and Details</i> - Profiles of centerlines of proposed new streets on sheets separate from the plat, at a horizontal scale on one inch equals 40 feet and vertical scale of one inch equals four (4) feet; profiles of all proposed sewers shall be shown on street profiles, when applicable, at the same scale. All elevations shall refer to USGS datum |

indicated on the map plan. Detail drawings of any construction methods required for the accommodation of utilities and street appurtenances shall be included. *(Amended: 06-19-89)*

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| <i>map</i> | 4. <i>Street Cross Section</i> - Cross section at fifty-foot horizontal intervals of proposed new streets, on sheets separate from the plan at the scale of 1 inch equals 5 feet horizontal and 5 feet vertical indicated on the map plan. <i>(Amended: 06-19-89)</i> |
| <i>map</i> | 5. <i>Sewer profiles</i> . Profile of sanitary sewer, if not shown on street profiles, on sheets separate from the plan, at the same scale indicated for street profiles indicated on the map plan. |
| <i>map</i> | 6. <i>Storm drainage plan</i> . Indicating the location and size of the proposed lines, catchbasins, underdrains, their profiles and means of disposal indicated on the map plan. |
| <i>map & text</i> | 7. <i>Open spaces</i> . The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider indicated on the map plan and in accompanying written information. If open space or recreation land is to be dedicated to the town, accompanying the plan must be a copy of the minutes of the Town Council, attested by the town clerk, in which the Town Council agrees to accept such open space or recreation land. Also accompanying the plan shall be written copies of any documents of land dedication and a letter from the town attorney that he is satisfied with the legal sufficiency of the documents conveying such land dedication. |
| <i>map</i> | 8. <i>Lots</i> - The location, bearing and length of every line, with all lots to be numbered in accordance with the property maps of the Town of Hampden indicated on the map plan. |
| <i>map</i> | 9. <i>Permanent Reference Monuments</i> - The location of permanent monuments and pins, set at all lot corners, and identified as existing or proposed indicated on the map plan. |
| <i>text</i> | 10. <i>Improvement Guarantee</i> - Accompanying the plat shall be a letter from the Town Manager indicating that the form, duration, and amount of the improvement guarantee is sufficient and that it has been filed with him in accompanying written information. |
| <i>map</i> | 11. <i>Approval Space</i> - Suitable space to record on the approved plan the date and conditions of approval, if any indicated on the map plan. This space shall be similar to the following example: |

(Additional Suggested Text)

This is to certify that after reviewing the subdivision submission information for the subdivision shown on this plan and considering each of the criteria set forth in M.R.S.A. Title 30-A, Section 4404 (as amended) and in the Hampden Subdivision Ordinance, the undersigned have made findings of fact establishing that this subdivision plan along with its additional submission information has met all the criteria set forth and therefore the subdivision is approved.

Approved: Town of Hampden Planning Board

_____,
Chairman

Date Approved: _____

Date Signed: _____

Conditions: _____

- text* 12. *Accompanying Data* - The plans shall show the proposed location of all utilities (ie. Water, sewer, electrical, telephone) with written letters from each respective utility indicating their approval for the proposed design and location as shown on the plans. Also there shall be a letter from the Fire Chief approving the number, size and location of hydrants proposed and a letter from the Town Manager indicating the Town's approval of rental charges in accompanying written information. (*Amended: 06-19-89*)
- text* 13. *Easements* - If any easements have been required by the Planning Board, title to the easement, drawn up in a form and substance acceptable to the town or the Hampden Water District if applicable) shall be provided to the town (or the Hampden Water District if applicable) by the subdivider before final approval is granted in accompanying written information.

340. Review of Minor Subdivision

341. *General* - The Planning Board may require, in advance, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision or a minor subdivision plan comply with all or any of the requirements specified for major subdivision or major subdivision plans.

342. Procedure

1. Within six (6) months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plan. The subdivision plan shall substantially conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.
2. The application for approval of a minor subdivision shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance payable by check to the Town of Hampden, Maine. (*Amended 11-17-03*)
3. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the subdivision plan.
4. The time of submission of the subdivision plan shall be considered to be the date of the regular monthly meeting of the Planning Board, at least fifteen (15) days prior to which the application, complete and accompanied by the required fee has been filed with the code enforcement officer. The Planning Board shall issue the subdivider a dated receipt for the subdivision plan at the time of submission of the subdivision plan.
5. Fifteen (15) paper copies and two (2) transparent copies of the subdivision application, containing all information required in section 343 of this Ordinance shall be submitted. (*Amended: 10-05-87*)
6. Within thirty (30) days from receipt of a subdivision plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed it shall notify the subdivider and begin its full evaluation of the proposed subdivision.

7. In the event that the Planning Board determines to hold a public hearing on the proposed subdivision, it shall hold such public hearing within thirty (30) days of having received a complete subdivision application, and shall cause notice of the date, time and place of such hearing to be given to the subdivider and to be published in a newspaper of general circulation in Hampden at least two (2) times, the date of the first publication shall be at least seven (7) days prior to the hearing. The decision to hold a public hearing is discretionary, and in making its decision the Planning Board may consider the size and location of the subdivision, its community impact, and whether any written requests for such hearing have been received.
8. The Planning Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of the time of submission, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and in Title 30-A MSRA §4401 through §4407 as amended Title 30, MRSA, section 4956, the state subdivision law, and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the state subdivision law.
9. Upon approval of the plan, at least a majority of the board members present and eligible to vote shall sign both transparencies. The date and conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the registry of deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action with respect to the subdivision.
10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan, unless the plan is first resubmitted to the Planning Board and the board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void and the board shall institute proceedings to have the plan stricken from the records of the registry of deeds.
11. The subdivider shall file a signed subdivision plan at the Penobscot County Registry of Deeds within ninety (90) days of the date of approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension which shall not exceed two (2) additional ninety (90) day periods.
12. If the Planning Board fails to take action within thirty (30) days of a public hearing or within sixty (60) days of the time of submission of a complete subdivision plan, if no hearing is held, or within the mutually agreed to time, as specified above, the subdivision plan shall be deemed disapproved.

343. *Submissions* - The subdivision plan of a minor subdivision shall be submitted in appropriate number of paper and stable transparent copies. The subdivision plan shall be not less than eight and one-half (8-1/2") inches by eleven (11") inches and not more than forty-eight (48") inches by thirty-six (36") inches. The plan shall be drawn at a scale in which one inch equals no more than one hundred (100') feet and shall be oriented so the north direction is the same on all sheets.

The application for approval of a minor subdivision shall include all of the following information:

343.1. *Information About the Applicant*

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| <i>map & text</i> | 1. Name of owner indicated on the map plan and in accompanying written info. |
| <i>map & text</i> | 2. Name of applicant (if other than owner) indicated on the map plan and in accompanying written information. |
| <i>text</i> | 3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of secretary of state's registration in accompanying written information. |
| <i>text</i> | 4. Name of applicant's authorized representative in accompanying written information. |
| <i>map</i> | 5. Name, address, seal, signature, and number of the land surveyor who prepared the plan indicated on the map plan. |
| <i>text</i> | 6. Address to which all correspondence from the Planning Board should be sent in accompanying written information. |
| <i>text</i> | 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.) in accompanying written information? |
| <i>text</i> | 8. What interest does the applicant have in any property abutting parcel to be subdivided in accompanying written information. |

343.2. *Information About the Parcel to be Subdivided*

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| <i>text</i> | 1. Location of property: book and page (from register of deeds) in accompanying written information. |
| <i>text</i> | 2. Location of property: map and lot (from assessor's office) in accompanying written information. |
| <i>map & text</i> | 3. Current zoning of property indicated on the map plan and in accompanying written information. Show location of zone boundaries on the parcel if any zone boundary crosses the parcel. |
| <i>text</i> | 4. Acreage of parcel to be subdivided in accompanying written information. |
| <i>map</i> | 5. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided as per tax assessor's records indicated on the map plan. |

- map & text* 6. Indicate the nature of any covenants or deed restrictions which are intended to cover all or part of the tract indicated on the map plan and in accompanying written information.
- map & text* 7. An actual field survey of the boundary lines of the parcel, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and shall be marked by permanent monuments, and shall be referenced and shown on the plan indicated on the map plan and in accompanying written information.
- map* 8. Location of any watercourses, floodplain, wetland, or unique natural features on the parcel indicated on the map plan.

343.3. *Information About the Subdivision*

- map* 1. Proposed name of subdivision indicated on the map plan.
- map & text* 2. Number of lots and lot sizes indicated on the map plan and in accompanying written information.
- map* 3. Date, north point, graphic map scale indicated on the map plan.
- map* 4. The location of permanent monuments or pins, set at all lot corners and identified as existing or proposed indicated on the map plan.
- map* 5. The location, bearing and length of every lot line with all lots to be numbered in accordance with the property maps of the Town of Hampden indicated on the map plan.
- map* 6. Suitable space to record on the approved plan the date and conditions of approval, if any. This space shall be similar to the following example:

(Additional Suggested Text)

This is to certify that after reviewing the subdivision submission information for the subdivision shown on this plan and considering each of the criteria set forth in M.R.S.A. Title 30-A, Section 4404 (as amended) and in the Hampden Subdivision Ordinance, the undersigned have made findings of fact establishing that this subdivision plan along with its additional submission information has met all the criteria set forth and therefore the subdivision is approved.

Date Approved: _____
Date Signed: _____
Conditions: _____

Approved: Town of Hampden Planning Board

_____,
Chairman

- map 7. Soils report. A soils report, identifying soil types and location of soil test areas. If subsurface sewage disposal is to be used, evidence of soil suitability for subsurface sewage disposal as determined by the Maine Plumbing Code shall be presented. There shall be at least one soils test per lot.
- map 8. Location and name of existing public streets and way.

350. Performance Standards for Subdivision The performance standards in this section are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., §4404, Review Criteria). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a subdivision plan. Compliance with the design guidelines of Sections 350 and 360 and Article 500 shall be considered to be evidence of meeting the appropriate performance standards. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met. All proposed subdivisions shall be in conformity with the Comprehensive Plan and subsequent amendments or revisions or policy statement of Hampden and with the provisions of all pertinent state and local codes and ordinances.

(Note: the **boldface** text that follows is directly from the statute).

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that

350.1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

- 1. The elevation of the land above sea level and its relation to the flood plains;**
- 2. The nature of soils and subsoils and their ability to adequately support waste disposal;**
- 3. The slope of the land and its effect on effluents;**
- 4. The availability of streams for disposal of effluents;**
- 5. The applicable state and local health and water resource rules and regulations**
6. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.
7. Discharges of storm water shall be designed to treat expected pollutants such as sediments prior to discharge into surface water bodies. Discharges from proposed parking lots and loading areas shall also be designed to treat expected pollutants such as oil, grease, and sediment prior to discharge into surface water bodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.
8. The homeowner association covenants, if the subdivision utilizes a homeowner association, will include a requirement to follow the guidelines in the most current edition of "Best management

Practices for the Application of Turf Pesticides and Herbicides” as published by the State of Maine Pesticide Control Board.

350.2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

1. The statutory criterion is that the proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision. This means an adequate supply of good quality water. Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan or a separate document to be recorded in the Registry of Deeds.
2. Any subdivision within 1,000 (one thousand) feet of an existing public water supply will be connected to and source its water supply from that public system unless the relevant water authority indicates in writing that it does not have the capacity to serve the subdivision or it can be demonstrated that the water extension costs are greater than the full cost of establishing private wells for all of the lots in the subdivision.
3. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Hampden Water District and the Hampden Public Safety.
4. When a proposed subdivision is not within the area designated for public water supply service in the Comprehensive Plan and subsequent amendments or revisions, or within 1000 feet of the existing water service, water supply shall be from individual wells or a private community water system with a map provided showing where the water supply is located.
 - A. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
 - B. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
 - C. When a central water supply system is provided by the applicant the location and protection of the source, the design, construction and operation of the system will conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
 - D. Hampden Public Safety Department must approve in writing the adequacy and accessibility of water supply for the proposed subdivision, whether the water is from public or private sources.

350.3. Public water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

In meeting the standards, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary to alleviate existing deficiencies.

350.4. Soil Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results:

1. The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, and adjacent properties.
2. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
3. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
4. Cutting or removal of vegetation along or adjacent to waterbodies shall not result in shoreline erosion or sedimentation.

350.5. Traffic Conditions. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section:

1. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
 - A. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
 - B. Avoid traffic congestion on any street; and
 - C. Provide safe and convenient circulation on public streets and within the subdivision; and
 - D. Provide adequate, unimpeded access to emergency vehicles and personnel to all lots and structures within the subdivision at all times under normal and adverse conditions. The Public Safety Department must approve in writing their satisfaction with the emergency vehicle access to and within the subdivision.
2. More specifically, access and circulation shall also conform to the following standards.
 - A. The vehicular access to the subdivision shall be arranged to avoid through traffic use of existing or proposed streets that the Comprehensive Plan and subsequent amendments or

revisions has classified as residential access streets. Gates or other form of permanent access restriction across access roads, streets or pedestrian ways are not permitted.

- B. The street giving access to the subdivision and neighboring streets and intersections that can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to "E" or below, unless the Comprehensive Plan and subsequent amendments or revisions has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection.
- C. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.
- D. Access ways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.
- E. Unless not feasible for topographic and other site conditions, provisions in the form of rights of way or street stubs shall be made for street connections to adjoining lots of similar existing or potential use within areas of Hampden designated as growth areas in the Comprehensive Plan and subsequent amendments or revisions. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Superintendent of Highways, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic. In non-residential subdivisions such access will be provided to adjoining lots or similar existing or potential use, if it will: (1) facilitate fire protection services as approved by the fire chief ; or (2) enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.
- E. Street Names, Signs and Lighting. Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall be named in accordance with Town of Hampden ordinances and shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to approval of the Board. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as required or approved by the Board and the cost of the installation and the operating costs will be borne by the applicant.
- F. Clean-up. Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

350.6. Sewage Disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

1. Public System.

- A. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1000 feet of the proposed subdivision at its nearest point.

Exceptions: This requirement is intended to facilitate the expansion of the public sewer system but is not absolute. The requirement is not intended to require sewer pump stations to satisfy the standard. The requirement is not intended to establish sewer extension costs that would exceed the full cost of establishing septic systems for all of the lots in the subdivision.

- B. When it is proposed that a subdivision be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations (if permitted under the Sewer Ordinance), shall be installed at the expense of the applicant.
- C. The sewer department shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
- D. The sewer department shall review and approve the construction drawings for the sewerage treatment. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer department or department.
- E. If the proposed system is to be public sewer with private wells the plan must include metering of well water with the full cost of the devices and the reading of the meters borne by the owner/resident. Such plan shall be presented to the Town Council for approval before final subdivision plan is granted by the Planning Board.

2. Private Systems.

- A. When a proposed subdivision is not within the area designated for public sewage disposal service in the Comprehensive Plan and subsequent amendments or revisions and as per the Comprehensive Plan and subsequent amendments or revisions Map, connection to the public system shall not be permitted unless the public sewer extension is approved by the Town Council and paid for by the developer. Permissible private sewage disposal shall be private subsurface wastewater disposal systems or a private treatment facility with surface discharge.
- B. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
- C. The site evaluator shall certify in writing that all test pits that meet the requirements for a new system represent an area large enough to provide a disposal area on soils that meet the Disposal Rules.
- D. Unless the subdivision is a cluster development served by a clustered subsurface waste water

disposal system, the following standards will apply:

- 1). Each proposed lot must be served by a septic system located within its boundaries (see 3) below).
 - 2). If the depth to a limiting factor, as defined by the above rules is less than 24 inches, both the septic system and a replacement system site must be located within each proposed lot. Both the Primary and The reserve area shall be shown on the plan and restricted so it will not be built on.
 - 3). Septic systems serving a structure on one lot are not allowed to be located on abutting or neighboring lots except under the following conditions:
Conditions to be determined.
 - 4). Septic systems shall be designed to ensure that there is no net increase in the flow of nitrates across the perimeter of the subdivision as a result of the subdivision's septic systems.
- E. In no instance shall a disposal area be on a site that requires a New System Variance from the Subsurface Wastewater Disposal Rules.

350.7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

Major subdivisions shall be required to obtain a letter from the Hampden Public Works director stating that the municipal solid waste disposal system has adequate capacity for the anticipated waste stream from the proposed subdivision lots for a period of at least five years.

If in the opinion of the Hampden Public Works director there is not adequate capacity to dispose of solid waste applicant shall be required to make alternate arrangements with an alternative disposal facility and provide a letter from that private solid waste disposal facility stating that they have adequate capacity for the disposal for the anticipated waste stream from the proposed subdivision lots for a period of at least five years.

350.8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

1. Preservation of Natural Beauty and Aesthetics

- A. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.

2. Retention of Open Spaces and Natural or Historic Features

- A. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation.

- B. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- C. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.
- D. ~~The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics.~~ A creative financial approach shall be established to target a fund for park and trail maintenance based on new tax dollars established from the new subdivision lots.
- E. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
- F. Reserved open space land may be dedicated to the municipality.
- G. Where land within the subdivision is not suitable or is insufficient in amount, where the applicant prefers, or when suggested by the comprehensive plan, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

3. Protection of Significant Wildlife Habitat

- A. A report shall be required if any portion of a proposed subdivision lies within 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the comprehensive plan as:
 - 1) Habitat for species appearing on the official state or federal lists of endangered or threatened species;
 - 2) High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - 3) Shorebird nesting, feeding and staging areas and seabird nesting islands;
 - 4) Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or

5B. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;

6C. Or other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports.

A report shall be prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

D. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.

350.9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

All lots shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. If all of the land within a subdivision will be owned as a condominium, i.e., owned in common by all dwelling unit owners, minimum dimensional requirements will be applied to nominal lots shown on the preliminary and final plans. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance.

350.10. . Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;

1. Financial Capacity. The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.
2. Technical Ability. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

350.11. . Surface waters; outstanding river segments (where applicable). Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation of water bodies.

Note: A., A(1) and A(2) regarding Outstanding River Segments are not applicable in Hampden, Maine.

350.12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water:

1. Ground Water Quality.

- A. Hydrologic assessment shall be submitted for major subdivisions and the assessment shall contain at least the following information:
 - 1). A map showing the basic soils types.
 - 2). The depth to the water table at representative points throughout the subdivision.
 - 3). Drainage conditions throughout the subdivision.
 - 5). An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.

Waterboro

5. A calculation of average nitrate nitrogen levels on-site after development and calculation of nitrate nitrogen levels at the down gradient property line(s). These calculations should be done under normal rainfall and draught conditions.

6. The sites recommended for the individual subsurface waste water disposal systems and the drinking water wells in the subdivision should be placed on the subdivision plan. Amended (3/11/89)

B. No development shall increase nitrate nitrogen concentrations at the property line of the development in excess of (5mg/1).

1. On site drinking water wells shall be located in areas where it has been determined that the nitrate nitrogen concentrations are at or below (5mg/1). Added (3/11/89)

- 6). A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

B. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

C. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

D. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate

how water quality will be improved or treated.

E. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

F. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

2. Ground Water Quantity. Based on the assessment of a licensed hydrogeologist, the ground water withdrawals by a proposed subdivision will not have a material adverse impact on the level of the water table in the immediate vicinity of the subdivision.

350.13. . Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation; When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

1. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.

2. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

3. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

350.14. Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the 1987 (or most recent) edition of the Corps of Engineers Wetland Delineation Manual, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

350.14-A. Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

350.15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

350.16. Storm water. The proposed subdivision will provide for adequate storm water management;

Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under drains, storm drains and best management practices equivalent to those described in The Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), in conformance with the policies of the Comprehensive Plan and subsequent amendments or revisions. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains and to meet the following standards:

1. Quantity. Peak discharge rates shall be limited to the predevelopment levels for the 2- year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean.
2. Quality.
 - A. Storm water run-off in subdivisions must be treated by the use of best management practices equivalent to those described in the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), to achieve, by design, 40% reduction in total suspended solids.
 - B. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.
 - C. Proposed projects which need a storm water permit from the Maine Department of Environmental Protection, pursuant to Chapter 500 and Chapter 502 regulations, shall meet both the State regulations and the requirements of this ordinance. In the case of any conflicting requirements, the stricter shall be applied.

350.17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

350.18. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

350.19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

350.20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

360. Design Guidelines. This section is intended to provide an example of design guidelines, that if followed will result in meeting the appropriate performance standards of Section 350. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this section may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

361. Sufficient Water.

1. Well Construction.

- A. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.
- B. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the affected lots.

362. Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

1. Retention of Open Spaces and Natural or Historic Features.

- A. As specified in Section 540 Open Space and Recreation Land, the subdivision shall reserve area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the needs identified in the Comprehensive Plan and subsequent amendments or revisions or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision and the policies of the plan for meeting those needs; the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.
- B. Sites selected primarily for scenic or passive recreation purposes shall have such access, as the Board may deem suitable and no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
- C. Proposed subdivisions that include or are adjacent to buildings or sites on the National Register of Historic Places or that the Comprehensive Plan and subsequent amendments or revisions has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

3. Protection of Significant Wildlife Habitat and Important Habitat Areas. The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions that include significant wildlife habitat or resources identified in Section 35x Protection of Significant Wildlife Habitat.

A. Protection of Habitat of Endangered or Threatened Species.

- 1). Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.
- 2). Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

B. Protection of Waterfowl, Shorebird, and Wading Bird Habitat, Atlantic salmon Spawning and

Nursery Areas.

1). There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:

- a. Shorebird nesting, feeding and staging areas and seabird nesting islands;
- c. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
- d. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
- e. Other important habitat areas identified in the Comprehensive Plan and subsequent amendments or revisions.

2). This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

C. Protection of Deer Wintering Areas. The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas.

D. Protection of Important Shoreland Areas.

1). Except as in areas described in Section 12.3.C.2, within all areas subject to the state mandated 250 foot Shoreland zone:

- a. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten-year period.
- b. Cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whatever is greater, including land previously developed.

2). These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.

E. If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Comprehensive Plan and subsequent amendments or revisions, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

363. Impact on Water Quality or Shoreline. Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots that include any such land shall contain the following restrictions:

1. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured

from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the footpath shall be limited to six feet.

2. Selective cutting of trees within the buffer strip is permitted provided that a well- distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten-year period.
3. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
4. Pruning of tree branches on the bottom third of the tree is permitted.

ARTICLE 400
IMPROVEMENT GUARANTEES

410. *Improvement Guarantees Required*

Before the submission of a Final Plan, the subdivider in all major subdivisions as defined in Section 1024 shall provide the town with improvement guarantees, in the form of one or more of the guarantee options listed below in an amount that will cover at least one hundred (100) percent of the cost of completing the improvements, including sewer, water, storm drainage, or street work, should the subdivider fail to complete the required improvements or fail to complete them satisfactorily in accordance with the approved final subdivision plan. Furthermore, the subdivider shall guarantee the improvements against all defects from materials and/or workmanship for a period of one year from the date of acceptance thereof by the Town. *(Amended 02-12-02)*

420. *Procedure*

The subdivider shall file with the Town Manager a proposed improvement guarantee (including a written guarantee agreement) and the Town Manager shall determine whether the form, amount, and the duration of the improvement guarantee are sufficient. In the event the Town Manager refuses to approve the proposed improvement guarantee as filed by the subdivider, he shall so inform the subdivider and shall inform the subdivider of his reasons for rejecting the guarantee. This shall be done in writing. In the event the Town Manager approves the proposed improvement guarantee as filed by the subdivider, he shall notify the Planning Board. The Planning Board shall not grant final approval until it has received such notification from the Town Manager. The burden of submitting improvement guarantees in compliance with this Ordinance shall at all times remain with the subdivider. *(Amended 02-12-02)*

430. *Time Limit*

431. *Completion Deadline.* All required improvements within a subdivision shall be completed within two (2) years of final subdivision approval. The improvement guarantee must provide performance protection to the town during said two-year period plus at least eighteen (18) months following the expiration of the two-year period. The additional eighteen-month period is required as protection to the town in the event the subdivider fails to complete the required improvements and for the one year guarantee period. *(Amended 02-12-02)*

432. *Extension.* The Town Manager may extend the completion deadline for two (2) additional years at one-year increments only where the subdivider presents substantial reason for doing so. No request for extension shall be considered until at least six (6) months prior to the original or extended completion deadline. Before extending the initial deadline or the initial extension, the Town Manager shall require that the improvement guarantee be extended in duration to cover the extended period of time, plus an additional eighteen month period. Before extending the initial deadlines, or the initial extension, the Town Manager shall review the form and amount of the improvement guarantee to make certain it remains adequate. *(Amended 02-12-02)*

440. *Inspection and Certification*

441. The Town Manager or his duly appointed representative shall regularly inspect the construction of the required improvements for defects. The subdivider shall cooperate with the Town Manager or his representative who is carrying out these inspections. Upon completion of the improvements the Town Manager shall notify the subdivider and the Planning Board, in writing, that the improvements have or have not been satisfactorily completed according to the approved

final subdivision plan. If the improvements have not been satisfactorily completed, the Town Manager shall list the defects.

442. Upon completion of the improvements, the subdivider shall file the following with the Town Manager:

1. A statement from the subdivider's engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan; and that the engineer knows of no defects from any cause, in the improvements;
2. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.

443. No final inspection will be conducted by the manager between November 15th and April 15th. This does not prohibit council acceptance of improvements inspected between April 15th and November 15th. *(Amended: 06-19-89)*

450. Release of Guarantee

As soon as the Town Manager or his authorized representative has inspected the improvements and certified that they are satisfactorily completed, the subdivider has filed the letter required in Section 442 of this Ordinance with the Town Manager, and the one year guarantee period has expired, the Town Manager shall release the previously required improvement guarantee to the subdivider. *(Amended 02-12-02)*

460. Reduction of Guarantee

1. When all required improvements have been substantially and satisfactorily completed, the Town Manager may release up to fifty (50) percent of the improvement guarantee. The improvement guarantee shall be reduced in value by no more than fifty (50) percent until all required improvements are satisfactorily completed.
2. Conditional acceptance may be authorized providing:
 - A. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.
 - B. The binder pavement layer is placed on all areas proposed to be paved.
 - C. The developer supplies the manager with an improvement guarantee (section 410), documented by a written estimate from a reputable paving contractor, for the placement of the final finished pavement layer. Said guarantee shall be released in accordance with Section 450. *(Amended: 06-19-89)*
3. Upon acceptance of the improvements by the Town, the Town Manager shall release up to eighty-five (85) percent of the improvement guarantee, and shall release the remaining portion fourteen (14) months after acceptance of the improvements by the Town, unless the Town Manager has provided notice of a guarantee claim pursuant to Section 475, in which case the guarantee shall remain in place until any such claims have been resolved to the satisfaction of the Town Manager. *(Amended 02-12-02)*

470. *Incomplete or Unsatisfactory Work*

If the Town Manager determines, according to the procedures laid out in section 440 of this Ordinance, that the improvements have not been satisfactorily completed according to the accepted subdivision plan, within the agreed upon time, he shall inform the subdivider in writing of the town's intent to exercise its rights against the improvement guarantee, he shall exercise any and all such rights; and may cause the incomplete or unsatisfactory work to be completed. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work may be returned to the subdivider at the discretion of the town. (Amended 02-12-02)

475. *Defective Improvements.* If the Town Manager, or designee, determines that the improvements suffer from defective workmanship or materials, the Town Manager, or designee, shall notify the subdivider in writing of the defects by not later than 30 days after the expiration of the one year guarantee period. If the defects are not corrected to the satisfaction of the Town Manager within 60 days after the issuance of the notice to the subdivider, the Town Manager, or designee, shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee, shall exercise any and all such rights, and may cause the defective workmanship or materials to be corrected. Any guarantee assets unused in the correction of any defects may be returned to the subdivider at the discretion of the Town. (Amended 02-12-02)

480. *Improvement Guarantee Option*

481. *Performance Bond* - Under this improvement guarantee option, the subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The bond shall be payable to the Town of Hampden and shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager. (Amended 02-12-02)

482. *Property Escrow* - Under this improvement guarantee option, the subdivider shall provide as a guarantee personal property, including stocks and bonds. The value of such property shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager.

482.1. *Personal Property Escrow* - If personal property is proposed for the improvement guarantee, the subdivider must comply with the following requirements:

1. The subdivider shall provide the town with evidence of the value of the personal property satisfactory to the Town Manager.
2. The subdivider shall, at his expense, provide the town with a title opinion from an attorney, satisfactory to the town, that there exists no outstanding recorded security interest in said property; the subdivider shall provide the town with evidence, satisfactory to the Town Manager, of ownership of the proposed property.
3. The subdivider shall enter into an agreement with the town and execute a security interest in favor of the town, which shall be filed as required by law; said agreement shall provide that the ownership of the property shall be transferred to the town, unless the subdivider satisfactorily completes the required improvements in accordance with this Ordinance and with the approved final subdivision plan. Said agreement and security interest shall contain such additional provisions as may be required by the Town Manager.

4. In the case of stocks, bonds, or other securities, the subdivider shall deliver to the town or its designated trustee the original certificate for said security, together with a stock or bond power endorsed in blank by the subdivider authorizing the transfer of ownership on the books of the corporation. In the case of other personal property, the subdivider shall deliver to the town, or its designated trustee, the personal property together with a satisfactory security interest in such property.
5. In the case of stocks, bonds, or other securities, the Town Manager may require that the value of said securities exceed the estimated cost of the required improvements in order to protect the town from market fluctuations, or may at his option reject stocks, bonds or other securities that in his opinion do not provide the town with satisfactory security.

483. *Letter of Credit* - Under this improvement guarantee option, the subdivider shall provide, as a guarantee, an irrevocable letter of credit from a bank or other reputable institution satisfactory to the Town Manager, such letter of credit to be in form satisfactory to the Town Manager. The amount of such letter of credit shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager. The letter of credit shall be deposited with the Town Manager and shall certify the following:

1. That the creditor does guarantee funds in an amount equal to the costs as estimated for the subdivider by a registered professional engineer and approved by the Town Manager, of completing all required improvements;
2. That, in case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Hampden immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the limit of credit stated in the letter. *(Amended 02-12-02)*

484. *Cash Escrow* - Under this improvement guarantee option, the subdivider shall provide as a guarantee, cash held in an account at a bank or other reputable institution subject to the approval of the Town Manager. The amount of cash shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and approved by the Town Manager. The subdivider shall enter into an agreement with the town that shall stipulate the terms under which a cash escrow may be accepted by the town.

ARTICLE 500
GENERAL REQUIREMENTS AND DESIGN STANDARDS

In considering applications for subdivisions of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Article 600 of this Ordinance.

510. General Requirements

511. *Conformity with other laws and regulations.* All proposed subdivisions shall be in conformity with the comprehensive plan of the Town of Hampden, as amended, and with the provisions of all pertinent state and local codes, ordinances, laws, and regulations.

512. *Character of the land.* Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. The Planning Board shall not approve such portions of any proposed subdivision that are located on land below sea level, within the one-hundred-year frequency floodplain, on wetland which must be filled or drained, on land created by diverting a watercourse, or on land subject to slumping, mass wasting, or land slides. In no instance shall the Planning Board approve any part of a subdivision located on filled tidal land.

513. *Soils* - Subdivisions which contain poor soils due to organic materials, clays, or seasonal high water table (less than 24 inches below grade) shall provide appropriate construction techniques, including but not limited to, underdrains and geotextiles in public road construction. (*Amended: 10-04-93*)

520. Lots

521. *Lots to be Buildable* - The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance there will be no foreseeable difficulties as a result of other natural conditions. Lots should not be of such dimension as to later encourage the creation of a second building lot out of the first. Land area delineated as freshwater wetlands, located between the upper edges of perennial or intermittent streams, or designated for stormwater detention facilities shall not be included as lot area for the purpose of the minimum lot area requirement applicable to the subdivision lots. (*Amended 10-03-05*)

Notwithstanding the provisions of this subsection, non-cluster Rural District lots comprised of less than two acres of upland may be approved if the Planning Board finds that the lot contains a minimum of one acre of generally contiguous upland area, not delineated as freshwater wetlands, and determines that the lot is suitable for development. (*Amended 10-03-05*)

Notwithstanding the provisions of this subsection, commercial and industrial subdivisions are exempted from this provision. (*Amended 02-12-02*)

522. *Side Lines* - All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a waiver from or modification of this rule will give a better street or lot plan.

Notwithstanding this subsection, variations to the right angle/radial of the street line are encouraged where the Planning Board determines that variations of no more than 20 degrees will improve the layout of the lots by meeting one or more of the following objectives: Simplification of lot layouts

by elimination of unnecessary property corners, foster creation of parallel side lot lines, foster improved solar access, accommodation of pre-existing features such as perimeter property lines or natural physical features such as wetlands and drainage ways. It is not the intent of the side lines rule to promote the placement of additional pins and monuments located in close proximity to the front property line. *(Amended 10-03-05)*

523. *Corner Lots* - In general, corner lots should be larger than interior lots to provide for proper building setback from each street and to provide a desirable building site.

524. *Lot Frontage* - Lot frontage shall be deemed acceptable only if it is on a road or street as defined in the Hampden Zoning Ordinance. Tie lines must be shown at the front setback line to demonstrate that the lot meets the frontage requirement of the zoning district at the setback unless the lot frontage exceeds the minimum frontage requirement by at least five feet. *(Amended 10-03-05)*

530. *Drainage Requirements*

531. *General* - The subdivider will be required to provide surface water and storm drainage management facilities appropriate to the finished subdivision. The following requirements must be met for both minor and major subdivisions. Minor subdivisions of single family dwellings in the Rural District are exempt from the following requirements.

1. A storm water management system will be designed to infiltrate, detain or retain water falling on the site during a design storm, such that the post-development peak discharge and runoff shall not exceed the peak discharge and runoff from the site prior to the development.
2. Pipe systems shall be designed to pass the peak discharge of a ten-year frequency, twenty-four-hour duration storm. Open channel systems shall be designed to contain a design storm. In addition, areas expected to be flooded by the design storm will be indicated on the plans, and be considered part of the drainage and storm water management system.
3. The storm water management system will take into consideration the upstream discharge and runoff which must pass over or through the development site. The system will be designed to pass upstream discharge and runoff, generated by the design storm, through the proposed development without overloading the system or flooding areas not specifically planned for such flooding.
 - A. The surface water and stormwater management system shall be designed so that no water shall be stored in any ditches or drainage ways located along streets or roads during a 10 year, 24 hour storm event. *(Amended 02-12-02)*
4. Urban development which provides public sewer and water service shall be designed to handle storm water drainage by means of an enclosed system with catch basins. Where necessary to control storm water, asphalt curbing may be required.
5. Materials and Installation
 - A. Pipe Culverts and Storm Drains - Shall conform to Section 603 of the Maine Department of Transportation (MDOT) Standard Specifications for Bridges and Highways, 1990 or current version.

- B. Manholes and Catch Basins - Shall conform to Section 604 of the MDOT Standard Specifications for Bridges and Highways, 1990 or current version.
6. Drain inlet alignment shall be straight in both horizontal and vertical alignment, unless specific approval of a curvilinear drain is obtained in writing from the Public Works Director after consultation with the Municipality's Engineer.
 7. Manholes/catch basins shall be provided at all changes in vertical and horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.
 8. Upon completion, each catch basin or manhole shall be cleaned of all accumulated silt, debris, or foreign matter until public acceptance. *(Amended: 10-04-93)*
532. *Approvals* - Applications for approval of all proposed subdivisions shall include documentation that demonstrates that there will be no unreasonable effects on runoff/infiltration relationships. This documentation shall include the following, as appropriate:
1. The proposed storm water management system shall be designed by a professional engineer experienced in the design of storm water systems. The designer of the system will evaluate the effectiveness of various storm water methods and develop and make available for review the hydraulic calculations. These calculations will be based on accepted engineering practices and must demonstrate that the requirements of section 531 will be met.
 2. Where permanent embankment-type storage or retention basins are planned, the basins shall be designed in accordance with good engineering practices, such as outlined in the current Soil Conservation Service Engineering Field Manual or other appropriate references.
 3. Rights-of-way or easements will be designated for all components of the drainage and storm water management system lying outside the established street lines. Stormwater detention facilities shall not be located on lots but on separate parcels to be conveyed to the town or provided for by easement to include provisions for suitable annual maintenance. All rights-of-way and easements will be turned over to the town. Notwithstanding the provisions of this subsection, commercial and industrial subdivisions are exempted from the provision requiring that stormwater detention facilities be separated from lots and conveyed to the Town. *(Amended 02-12-02)*
 4. The developer shall certify in writing that all components of the storm water management system will be maintained until the system is formally accepted by the municipality or a quasi-municipal district, or is placed under the jurisdiction of a legally created association that will be responsible for the maintenance of the system.
 5. The storm water management system will be fully coordinated with the project site plans, including consideration of street patterns, pedestrian ways, open space, building siting, parking areas, recreational facilities, and other utilities. Stormwater drainage channels shall be directed to run along property lines to avoid driveway and other utility crossings. *(Amended 02-12-02)*
 6. When the construction of a development is to occur in phases, the planning of the storm water management system shall encompass the entire site which may ultimately be developed, and shall not be limited to an initial or limited phase of the development. *(Amended: 11-18-85)*

540. *Open Space and Recreation Land* - All subdivisions shall be required to set aside land for open space and recreation or to provide cash in lieu of land. The primary intent of this section is to provide open space and recreation land in all areas of the community. It is understood that not all developments will have land suitable for open space or recreation within their boundaries, therefore this section is designed to be as flexible as possible. To that end, this section shall allow the provision of off-site open space and recreation areas, and cash in lieu of land. In cluster development, the cash in lieu of land provision shall not apply.

541. *Approval Authority* - The Planning Board shall approve the means of meeting this requirement.

The Hampden Conservation Committee and Recreation Committee shall be given opportunity to make written recommendations to the Planning Board on all open space proposals within forty-five (45) days of receiving notice. Where land is to be dedicated to the town, or otherwise requires action of the Town Council, the Planning Board shall require the subdivider provide documentation as to the Town Council's decision as provided in 545.2. (*Amended: 05-20-96*)

542. *Area Required* - The area of land set aside shall be based on the open space requirements of the Zoning Ordinance. If no open space requirement exists in the Zoning Ordinance, the applicant shall be required to provide land in accordance with the following: 500 square feet per unit, or five (5) percent of the parcel to be developed, whichever is greater.

Exception: No open space dedication is required in Minor Subdivisions (four lots or less) in the Rural District if the total aggregate area of the proposed lots exceeds the minimum lot area required in the Zoning Ordinance by at least 10 percent. No fee in lieu of open space is required for subdivisions that satisfy this exception. The intent of this exception is to avoid creating very small open spaces that do not serve the interests of the subdivision or the Town while maintaining the densities that the ordinances contemplate. This exception shall also apply to further division of lots in previously approved subdivisions. *Amended 7-14-2014, Effective Date 8-13-2014*

543. *Standards for Land* - The purpose of this section is to provide for permanent open space. The subdivider may offer dedicated land, conservation easements, or other means to meet the requirements of this section. These areas shall be in locations designated as open space or green belts in the Comprehensive Plan. Land dedicated to permanent open space shall be in such condition, size and shape as to be readily usable for recreation or conservation. (*Amended: 05-20-96*)

1. Where the open space requirement is in excess of ten (10%) percent of the land to be subdivided, the subdivider may elect to provide land identified in the Open Space and Recreation Plan, if one exists. Where off-site open space is proposed, the following standards apply:
 - A. Ten (10%) percent shall be provided within the subdivision.
 - B. The off-site open space shall be within one (1) mile of the subdivision.
 - C. The off-site open space shall have been previously designated in the Open Space and Recreation Plan.
 - D. The subdivider shall provide proper right, title or interest to the off-site land.

544. *Standards for Cash-in-Lieu of Land* - Where cash in lieu is proposed, the following standards shall apply.

1. At the time of Final Plan submission, the subdivider shall contribute to the Town of Hampden \$400/lot, \$200/unit or \$200/acre, whichever is greatest.
2. All monies placed in this fund shall be used for the purchase or development of open space or recreation land.
3. Land purchased or developed with these funds shall be located to serve the needs of the residents of the subdivision. *(Amended: 06-03-91)*

545. *Provisions for Ownership and Maintenance of Open Space or Recreation Areas* - If land is to be set aside under the provisions of this section, the subdivider shall make provisions for the permanent ownership, protection and maintenance of such land. The means for insuring the open space will be available in perpetuity shall be:

1. Retain ownership and responsibility for maintenance of such land; or
2. Dedicate such land to public use if the town or another public agency has indicated it will accept such dedication. If the subdivider proposed that the town accept the land, the subdivider must provide the planning board, as part of the final plan, with a copy of the minutes of the meeting of the Town Council, attested by the town clerk, in which the Town Council agreed to accept such land; or
3. Provide for and establish one or more organizations for ownership and maintenance of such land. Such organization shall be either a nonprofit homeowners' corporation or a community open space trust. If such organization is formed, it shall be formed and operated in accordance with the following rules:
 - A. The organization shall be formed by the developer and be operating, with financial subsidization by the developer if necessary, before the sales or lease of any lots or units within the development.
 - B. Membership in the organization is mandatory for all purchasers of units therein and their successors.
 - C. The organization shall be responsible for maintenance of common open spaces and property. It shall also be responsible for insurance and taxes on common open space and property.
 - D. The members of the organization shall share equitably the cost of maintaining and developing common open space and property in accordance with written procedures established by them. *(Amended: 09-21-87, 06-03-91)*

550. Street Standards

551. *Layout of Streets* - All streets in a subdivision shall be planned so as to meet the following standards:

1. The proposed streets shall conform, as far as practical, to the adopted Comprehensive Plan or policy statement of the Town of Hampden.
2. All streets in the subdivision shall be designed so as to provide safe vehicular travel and, in minor streets, shall be designed so as to discourage movement of through traffic.
3. The arrangement of streets in the subdivision shall provide for the continuation of arterial and collector streets into adjoining unsubdivided land unless topographic or other factors make continuance impracticable or undesirable. Where a subdivision is served by a minor street, the Planning Board may require that a right-of-way or the minor street be projected to adjacent unsubdivided land when the board finds that such a projected street would be in keeping with the land use goals for the area and with sound planning practice.
4. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the town under conditions approved by the Town Council.
5. Intersections of streets shall be at angles as close to ninety (90) degrees as possible. In no case shall two (2) streets intersect at an angle of less than sixty (60) degrees.
6. A distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets.
7. Whenever possible, subdivisions containing fifteen (15) lots or more shall have at least two (2) street connections with existing public streets or streets shown on the official road map, if such exists, or streets on an approved Subdivision Plan.
8. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the preliminary and the final plan, marked "Reserved for road realignment (or widening) purposes". Land reserved for such purposes may not be counted in satisfying setback or yard or area requirements of the Zoning Ordinance.

552. *Design and Construction Standards* - All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification as determined by the Planning Board.

Design and Construction Standards for Streets

<u>Item</u>	<u>Collector</u>	<u>Minor</u>
1. Minimum right-of-way width	66 ft.	66 ft.
2. Minimum pavement width	24 ft.	20 ft.
3. Minimum grade	0.5%	1.0%
4. Maximum grade	8%	8%
5. Maximum grade at intersection 3% Within feet from intersection	75 ft.	50 ft.
6. Minimum centerline radii on curves	200 ft.	100 ft.
7. Minimum tangent length between reverse curves	200 ft.	100 ft.
8. Depth of subgrade grading	22 in.	22 in.
9. Sub base gravel depth	18 in.	18 in.
10. Upper base gravel	4 in.	4 in.
11. Pavement (see 552 item 2)		
A. Grade B	2-1/2 in.	2-1/2 in.
B. Grade C	1-1/2 in.	1-1/2 in.
C. Total thickness	4 in.	4 in.
12. Minimum road crown-centerline to edge of pavement.	3 in.	3 in.
13. Minimum shoulder width on each side of road.	2 ft.	2 ft.
14. Sidewalks		
A. Minimum width	5 ft.	4 ft.
B. Gravel base course	6 in.	6 in.
C. Surface pavement	2 in.	2 in.

<u>Item</u>	<u>Collector</u>	<u>Minor</u>
15. Dead-end or cul-de-sac streets		
A. Completely paved Radii of turn around at enclosed end		
i. Right-of-way boundary minimum	60 ft.	50 ft.
ii. Outside pavement radius - min.	40 ft.	35 ft.
B. With island (see #26)		
i. Right-of-way boundary – min.	65 ft.	55 ft.
ii. Inside pavement radius	26 ft.	25 ft.
iii. Outside pavement radius	50 ft.	49 ft.
iv. Minimum pavement width	24 ft.	24 ft.
<i>(Amended: 10-03-05)</i>		
C. Temporary (See #27)		
i. Radii at Right-of-way - min.	50 ft.	50 ft.
ii. Gravel turn around minimum	40 ft.	40 ft.
<i>(Amended: 12-04-95)</i>		
16. Minimum pavement curb radii at intersections and where street meets cul-de-sac 20 ft. <i>(Amended: 10-03-05)</i>		
17. Grade of streets should conform as closely as possible to the original relief of the land.		
18. All changes in grade shall be connected by vertical curves such as will provide clear visibility for a distance of two hundred (200') feet.		
19. Side slopes shall not be steeper than three (3') feet horizontal and one foot vertical, graded, loamed (six [6] inches compacted) and seeded. If the side slope extends outside the required right-of-way, the subdivider shall expand the right-of-way to include the entire side slope area.		
20. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water. Driveway culverts shall be adequate to pass the design flow of the contiguous ditches.		
21. In construction of roads, the paved area, sidewalk, and shoulder shall be cleared of all stumps, roots, brush, perishable material, and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from the roadway to at least subgrade depth, or as directed by the Town Manager.		
22. The roadway area shall be brought to the grade shown on the plan, profile and cross-section, by suitable gravel. The subbase gravel shall meet the specifications for aggregate subbase courses as contained in the current edition of “The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation”. The upper base gravel shall meet the specifications for aggregate base courses in the same standards.		
23. After the upper base gravel has been thoroughly rolled, the surface of the roadway shall be paved. The pavement material and the manner of application of such shall conform to the requirements of the current edition of “The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation”.		
24. The Planning Board may require curbing of roads.		

25. Where a green space is planned in the interior of a cul-de-sac, existing vegetation should be preserved where possible. Any proposed landscaping shall be of a type which requires limited maintenance. *(Amended: 12-04-95)*

26. Where a proposed street may be extended, the Planning Board may authorize a temporary cul-de-sac. Temporary cul-de-sacs shall provide an escrow account for a period of five (5) years to cover the cost of paving, which is renewable in five (5) year increments. Access shall be prohibited from a temporary cul-de-sac. *(Amended: 12-04-95)*

553. *Utilities in Streets* - The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and the street right-of-way line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.

554. *Street Names*

1. Proposed street names shall be substantially different from existing street names so as not to be confused in sound or spelling.
2. If proposed streets are extensions of existing streets they shall carry the same name.
3. Generally no street should change direction by more than ninety (90) degrees without a change in street name.
4. In general, streets shall have names, not numbers or letters. *(Amended: 09-21-87, 06-19-89)*

560. *Utilities*

561. If public water and/or sewer is proposed, the system shall be designed so as to accommodate any development which can reasonably be expected to tie into the system. In determining the amount of reasonably expected development, the Planning Board shall consider existing land use, existing zoning, the character of the land, topography, and existing constraints to development (such as boggy areas), the carrying capacity of the land and of existing municipal services, and the town's Comprehensive Plan or sewer and water plan. If the system has to be built so that it is larger than would normally be required under conditions of the maximum utilization of the subdivider's contiguous land (including land on opposite sides of streets), the town will pay the difference in cost for the larger pipes. The subdivider must cover all other expenses.

562. The subdivider shall install any new public utility system according to the approved Subdivision Plan. If either the public sewer or water system follows a course which is not collinear with the road network, the Planning Board shall require that the subdivider provide the Town of Hampden or the Hampden Water District with a utility easement.

563. If individual wells are proposed for the subdivision, the Planning Board may require that the subdivider's engineer certify that sufficient water is available for the reasonable foreseeable needs of the subdivision.

564. If subsurface sewage disposal is proposed, the Planning Board shall require that the subdivider provide proof that a subsurface sewage disposal system which is in conformance with the Maine State Plumbing Code can be installed on every lot.

565. Pump stations shall not be used in the construction of sewer systems in any proposed development with the Town of Hampden, Maine, except as permitted under the Town's Sewer Ordinance. (*Amended: 03-07-88*) (*Amended 08-06-07*)

570. *Buffer Strip* - The Planning Board may require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.

ARTICLE 600

WAIVER AND MODIFICATIONS OF THESE REGULATIONS

610. Where the Planning Board finds that extraordinary and unnecessary hardship may result from strict compliance with these regulations, or where there are special circumstances of a particular plan, it may waive any of these regulations provided that such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, the Zoning Ordinance, or any other ordinance. Upon recommendation of the Planning Board, fees may be adjusted or waived only with the approval of the Hampden Town Council.

620. In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. (*Amended: 12-01-86*)

ARTICLE 700

VALIDITY, EFFECTIVE DATE, CONFLICT OF ORDINANCES, AND FILING

710. Should any section or provision of these regulations be declared by the courts to be invalid, such section shall not invalidate any other section or provision of these regulations, and to this end, the provisions of these regulations are hereby declared to be severable.

720. The effective date of these regulations is June 17, 1982

730. These regulations shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where these regulations impose a higher standard for the protection and promotion of health and safety, the provisions of these regulations shall prevail.

740. A copy of these regulations shall be filed with the Town Clerk and shall be accessible to any member of the public.

750. The Subdivision Ordinance of the Town of Hampden as adopted at the annual meeting March 3, 1970 and as amended, is hereby repealed.

ARTICLE 800
AMENDMENTS

810. *Initiation of Amendment* - An amendment to this Ordinance may be initiated by:

1. The Planning Board, provided a majority of the Board has so voted;
2. Request of the Town Council to the Planning Board; or
3. Written petition of ten (10%) percent of the registered voters of the town.

820. *Proposed Amendments* - All proposed amendments shall be referred to the Planning Board for their recommendation. Such recommendation shall be returned to the Council within thirty (30) days.

830. *Adoption of Amendment* - For an ordinance change to be adopted, it must be approved by a majority vote of the Town Council if the change has been recommended by the Planning Board. If the change has not been recommended by the Planning Board, a two-thirds vote of the Town Council will be necessary to adopt it.

ARTICLE 900
APPEALS

An appeal may be taken, within thirty (30) days from the Planning Board's decision on the Final Plan, by any party to Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.

ARTICLE 1000
DEFINITIONS

1010. Words and terms not defined in section 1020 shall have the meanings given them in the Zoning Ordinance of the Town of Hampden, or in the absence of definitions in said Ordinance, such words and terms shall have their customary dictionary meanings.

1020. The following words and terms, for the purpose of this Ordinance, shall be designated as follows:

1021. *Subdivision.* For purposes of these regulations, the term "Subdivision" is as defined in the MRSA, Section 30-A, §4401 as amended.

~~"Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5 year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5 year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units with a 5 year period.~~

~~1. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:~~

~~A. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single family residence or for open space land as defined in~~

~~Title 36, M.R.S.A. Section 1102, for a period of at least 5 years before the 2nd dividing occurs; or~~

~~B. The division of the tract or parcel is otherwise exempt under this definition.~~

~~2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot(s) in reviewing a proposed subdivision created by a subsequent dividing.~~

~~3. A lot of 40 or more acres shall not be counted as a lot, except:~~

~~A. When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in the Hampden Zoning Ordinance, or any superseding state statute.~~

~~4. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, or by the transfer of any interest in land to the owner of land abutting that land, does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.~~

~~5. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.~~

~~6. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.~~

~~7. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph D, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transfer is to avoid the objectives of this Ordinance.~~

~~— Exceptions~~

~~— This Ordinance does not apply to:~~

~~1. Previously approved subdivisions. Proposed subdivisions approved by the Planning Board before September 23, 1971, in accordance with laws then in effect;~~

~~2. Previously existing subdivisions. Subdivision in actual existence on September 23, 1971, that did not require approval under prior law; or~~

- ~~3. Previously recorded subdivision. A subdivision, a plan of which had been legally recorded in the Penobscot County Registry of Deeds before September 23, 1971. (Amended: 02-07-94)~~

NOTE: For convenience the Statutory definition of subdivision as of July 24, 2014 is attached here but the reader of this ordinance is well advised to check the current statute in Title 30-A MSRA §4401.

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.]

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.]

H-1. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

(1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located. .]

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter..

1022. *Tract or parcel of land* - All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

1023. *Minor Subdivision* - A subdivision with less than five (5) lots which does not involve the construction or reconstruction of a new street, or the extension of public sewer lines, or the extension of public water lines, or the construction of a storm drainage system.

1024. *Major Subdivision* - A subdivision which is not a minor subdivision.

1025. *Street* - Shall mean a right-of-way, intended for motorized traffic, in the Town of Hampden, which is either:

1. Owned, established, and maintained by the Town of Hampden, the County of Penobscot, or the State of Maine; or
2. Is shown on a plan of a subdivision which has been duly approved by the Hampden Planning Board and recorded in the Penobscot County Registry of Deeds.

1026. *Minor Street* - A street which serves primarily as an access to abutting properties.

1027. *Collector Street* - A street which connects one or more minor streets with an arterial street.

1028. *Arterial Street* - A street which serves heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas.

1029. *Design Storm* - A storm with a frequency or recurrence interval of twenty-five (25) years and a duration of twenty-four (24) hours.

1030. *Pump Stations* - For the purpose of this Ordinance, pump stations shall be defined as any device intended and designed for the purpose of transporting, pumping or lifting of sanitary sewage from residences, commercial institutions or central collection points to the municipal sanitary sewer system. This shall not include lift pumps used in self-contained, on-site subsurface disposal systems. (Amended: 11-18-85, 9-19-88)

1031. *Freshwater Wetland* - Freshwater Swamps, marshes, bogs and similar areas which are:

1. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
2. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection. For the purposes of this Ordinance, "wetland" shall mean the same as freshwater wetland. Freshwater wetlands shall be delineated in accordance with the current authorized federal manual, unless the Planning Board approves a different delineation method. (Amended: 12-20-93)

1032. *Dwelling Unit* - "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, apartments and time-share units. (Amended: 02-07-94)

1033. *New Structure or Structures* - "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this Ordinance. (Amended: 02-07-94)



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Discussion on Lot Frontage Exemption for Cul-de-sac Lots in Subdivisions
DATE: February 2, 2015

I fielded two land owner inquiries asking how to go about dividing their existing large lots, each located on the end of a cul-de-sac street, but neither having available the requisite 200 feet of additional road frontage for such a split in the Rural District. In both cases a land split could yield desirable house lots except for the required road frontage. Staff explored the possibilities with the land owners and agreed to bring this Zoning Ordinance amendment request to the Committee. Staff also did a cursory review of lots at cul-de-sacs and found perhaps 7 cul-de-sacs that might benefit from a reduced road frontage requirement. Modification of the street itself and a general variance are also briefly discussed herein:

An adjustment in frontage on cul-de-sac street lots: The Council could consider a modification to the zoning ordinance that reduces the frontage requirement on cul-de-sac lots if there is a consensus for doing so: As a point of discussion perhaps allow a 50% reduction in frontage on Rural District lots located on cul-de-sacs. Generally the 200 foot frontage requirement of the Rural District provides both a safety mechanism for access management limiting vehicular access points on the road as well as a spacing a mechanism effectively places buildings at a rhythm of one each 200 feet. As a safety mechanism on 30 mph and 40 mph roads the premise is to avoid creation of impractical/unsafe curb openings every 50 to 100 feet with associated sight distance and stopping distance mathematics. The 200 foot frontage/lot width also tends to space out the houses on the street to create a visual expectation of lighter development. However on a cul-de-sac there are generally slow speeds and less rationale from the safety aspect than at other portions of rural roads. Spacing between houses on the cul-de-sac could be accomplished in some other way given the fact many lots on cul-de-sacs are triangular shaped and if placed farther back on the lot to a wider portion of the lot).

Add enough road length to meet the frontage requirement: In the abstract the street could be lengthened (at the owner's expense) to add the needed 200 feet of road frontage at a construction cost of \$150 per foot (not including engineering and permitting if that was deemed feasible). That might cost \$30,000.00 and would be quite speculative in nature unless there was a ready buyer for the second lot.

Seek a variance: No variance opportunity is available in these situations because the lack of frontage was clearly the action of the prior land owner when designing the subdivision. The Board of Appeals is prohibited from variance actions when the need for the variance was caused by the landowner (current or past).

As to the lots in question: One lot is 8 acres of land located at the end of the Evergreen Drive cul-de-sac with 204 feet of road frontage. The other lot is a similar in size and frontage and is located at the cul-de-sac end of Johns Way. The Rural District where the lot is located requires 200 feet of road frontage/per lot so there is not adequate road frontage for the creation of a second house lot.